

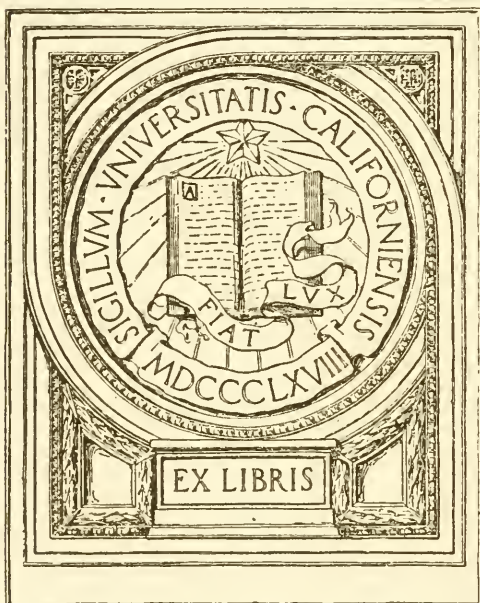
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# GENERAL TAX LAWS

## STATE OF TEXAS.

(ANNOTATED.)

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COMPILED BY  
**JNO. T. SMITH AND B. F. TEAGUE,**  
CHIEF CLERK, AND CHIEF TAX CLERK,  
RESPECTIVELY,  
COMPTROLLER'S OFFICE.



AUSTIN, TEXAS.  
H. P. N. GAMMEL, PUBLISHER.  
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## PREFACE.

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This book contains the general tax laws of the State of Texas as they stand today, including the laws passed by the Twenty-ninth Legislature.

The constitutional provisions of this State, with reference to taxation, are given in the first part of the book. Then follow the statutory provisions. The articles are numbered as they appear in the Revised Statutes of 1895. When a new article has been enacted and not given a statutory number, it has been placed where it should properly appear.

References have been made to decisions of the Supreme Court, Courts of Civil Appeals, and the Court of Criminal Appeals, and also to opinions of the Attorney General addressed to the Comptroller and rulings of the Comptroller's Department, of importance to assessors and collectors of taxes and to commissioners courts with respect to their duties in the assessment and collection of taxes, and they are printed in smaller type following the articles to which they refer.

It was thought best not to encumber the book with references to all decisions and rulings bearing on the subject of taxation, hence such only have been noted as were thought to be of most importance and to give a clear understanding of the constructions placed upon the statutes by the courts and departments.

Rulings of the Comptroller's Department have not been given on questions that have been decided by the courts or on which the Attorney General has rendered opinions. To have done so would have unnecessarily increased the size of the book, as that department uniformly adheres to the decisions of the courts and the opinions of the Attorney General.

JOHN T. SMITH.  
B. F. TEAGUE.

Austin, Texas, October 24, 1906.



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# GENERAL TAX LAWS

## OF THE

# STATE OF TEXAS.

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## ART. 8. TAXATION AND REVENUE.

SECTION 1. Taxation shall be equal and uniform. All property in this State, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law. The Legislature may impose a poll tax. It may also impose occupation taxes, both upon natural persons and upon corporations, other than municipal, doing any business in this State. It may also tax incomes of both natural persons and corporations, other than municipal, except that persons engaged in mechanical and agricultural pursuits shall never be required to pay an occupation tax; provided, that two hundred and fifty dollars worth of household and kitchen furniture, belonging to each family in this State, shall be exempt from taxation; and provided further, that the occupation tax levied by any county, city or town, for any year, on persons or corporations pursuing any profession or business, shall not exceed one-half of the tax levied by the State for the same period on such profession or business.

SEC. 2. All occupation taxes shall be equal and uniform upon the same class of subjects within the limits of the authority levying the tax, but the Legislature may, by general laws, exempt from taxation public property used for public purposes; actual places of religious worship; places of burial not held for private or corporate profit; all buildings used exclusively and owned by persons or associations of persons for school purposes (and the necessary furniture of all schools), and institutions of purely public charity; and all laws exempting property from taxation, other than the property above mentioned, shall be void.

SEC. 3. Taxes shall be levied and collected by general laws and for public purposes only.

SEC. 4. The power to tax corporations and corporate property shall not be surrendered or suspended by act of the Legislature, by any contract or grant to which the State shall be a party.

SEC. 5. All property of railroad companies, of whatever description, lying or being within the limits of any city or incorporated town within this State, shall bear its proportionate share of municipal taxation, and if any such property shall not have been heretofore rendered, the authorities of the city or town within which it lies shall have power to require its rendition, and collect the usual municipal tax thereon, as on other property lying within said municipality.

SEC. 8. All property of railroad companies shall be assessed, and the taxes collected in the several counties in which said property is situated, including so much of the roadbed and fixtures as shall be in each county. The rolling stock may be assessed in gross in the county where the prin-



incipal office of the company is located, and the county tax paid upon it shall be apportioned by the Comptroller in proportion to the distance such road may run through any such county, among the several counties through which the road passes, as a part of their tax assets.

\*SEC. 9. The State tax on property, exclusive of the tax necessary to pay the public debt and of the taxes provided for the benefit of public free schools, shall never exceed 35 cents on the one hundred dollars valuation, and no county, city or town shall levy more than 25 cents for city or county purposes, and not exceed 15 cents for roads and bridges on the one hundred dollars valuation, except for the payment of debts incurred prior to the adoption of the amendment, September 25, A. D. 1883; and for the erection of public buildings, streets, sewers, waterworks and other permanent improvements, not to exceed 25 cents on the one hundred dollars valuation in any one year, and except as is in this Constitution otherwise provided; and the Legislature may also authorize an additional annual ad valorem tax to be levied and collected for the further maintenance of the public roads; provided, that a majority of the qualified property tax paying voters of the county, voting at an election to be held for that purpose, shall vote such tax, not to exceed 15 cents on the one hundred dollars valuation of the property subject to taxation in such county. And the Legislature may pass local laws for the maintenance of public roads and highways without the local notice required for special or local laws.

SEC. 10. The Legislature shall have no power to release the inhabitants of, or property in, any county, city or town, from the payment of taxes levied for State or county purposes, unless in case of great public calamity in any such county, city or town, when such release may be made by a vote of two-thirds of each house of the Legislature.

SEC. 11. All property, whether owned by persons or corporations, shall be assessed for taxation and the taxes paid in the county where situated, but the Legislature may, by a two-thirds vote, authorize the payment of taxes of non-residents of counties to be made at the office of the Comptroller of Public Accounts. And all lands and other property not rendered for taxation by the owner thereof shall be assessed at its fair value by the proper officer.

SEC. 12. All property subject to taxation in, and owned by residents of unorganized counties, shall be assessed and the taxes thereon paid in the counties to which such unorganized counties shall be attached for judicial purposes; and lands lying in and owned by non-residents of unorganized counties, and lands lying in the territory not laid off into

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\*Section 9, Article 8, declared adopted December 19, 1890.

counties, shall be assessed and the taxes thereon collected at the office of the Comptroller of the State.

SEC. 13. Provision shall be made by the first Legislature for the speedy sale of a sufficient portion of all lands and other property for the taxes due thereon, and every year thereafter for the sale of all lands and other property upon which the taxes have not been paid, and the deed of conveyance to the purchaser for all lands and other property thus sold shall be held to vest a good and perfect title in the purchaser thereof, subject to be impeached only for actual fraud; provided, that the former owner shall, within two years from date of purchaser's deed, have the right to redeem the land upon the payment of double the amount of money paid for the land.

SEC. 14. There shall be elected by the qualified electors of each county, at the same time and under the same law regulating the election of State and county officers, an assessor of taxes, who shall hold his office for two years and until his successor is elected and qualified.

SEC. 15. The annual assessment made upon landed property shall be a special lien thereon, and all property, both real and personal, belonging to any delinquent taxpayer shall be liable to seizure and sale for the payment of all the taxes and penalties due by such delinquent; and such property may be sold for the payment of the taxes and penalties due by such delinquent, under such regulations as the Legislature may provide.

SEC. 16. The sheriff of each county, in addition to his other duties, shall be the collector of taxes therefor. But in counties having ten thousand inhabitants, to be determined by the last preceding census of the United States, a collector of taxes shall be elected, to hold office for two years and until his successor shall be elected and qualified.

SEC. 17. The specification of the objects and subjects of taxation shall not deprive the Legislature of the power to require other subjects or objects to be taxed, in such manner as may be consistent with the principles of taxation fixed in this Constitution.

SEC. 18. The Legislature shall provide for equalizing, as near as may be, the valuation of all property subject to or rendered for taxation (the county commissioners court to constitute a board of equalization); and may also provide for the classification of all lands with reference to their value in the several counties.

\*SEC. 19. Farm products in the hands of the producer and family supplies for home and farm use are exempt from all taxation until otherwise directed by a two-thirds vote of all the members elect to both houses of the Legislature.

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\*Section 19, Article 8, declared adopted October 14, 1879.

## ARTICLE 3.

SEC. 48. The Legislature shall not have the right to levy taxes or impose burdens upon the people, except to raise revenue sufficient for the economical administration of the government, in which may be included the following purposes:

The payment of all interest upon the bonded debt of the State.

The erection and repairs of public buildings.

The benefit of the sinking fund, which shall not be more than two per centum of the public debt; and for the payment of the present floating debt of the State, including matured bonds for the payment of which the sinking fund is inadequate.

The support of public schools, in which shall be included colleges and universities established by the State; and the maintenance and support of the Agricultural and Mechanical College of Texas.

The payment of the cost of assessing and collecting the revenue; and the payment of all officers, agents and employes of the State government, and all incidental expenses connected therewith.

The support of the blind asylum, the deaf and dumb asylum and the insane asylum, the State cemetery and the public grounds of the State.

The enforcement of quarantine regulations on the coast of Texas.

The protection of the frontier.

## ARTICLE 11.

SEC. 4. Cities and towns having a population of ten thousand inhabitants or less may be chartered alone by general law. They may levy, assess and collect an annual tax to defray the current expenses of their local government, but such tax shall never exceed, for any one year, one-fourth of 1 per cent, and shall be collectible only in current money. And all license and occupation tax levied, and all fines, forfeitures, penalties and other dues accruing to cities and towns shall be collectible only in current money.

SEC. 5. Cities having more than ten thousand inhabitants may have their charter granted or amended by special act of the Legislature, and may levy, assess and collect such taxes as may be authorized by law, but no tax for any purpose shall ever be lawful, for any one year, which shall exceed  $2\frac{1}{2}$  per cent of the taxable property of such city; and no debt shall ever be created by any city unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon and create a sinking fund of at least 2 per cent thereon.

SEC. 6. Counties, cities and towns are authorized, in such mode as

may now or may hereafter be provided by law, to levy, assess and collect the taxes necessary to pay the interest and provide a sinking fund to satisfy any indebtedness heretofore legally made and undertaken; but all such taxes shall be assessed and collected separately from that levied, assessed and collected for current expenses of municipal government, and shall, when levied, specify in the act of levying the purpose therefor, and such taxes may be paid in the coupons, bonds or other indebtedness for the payment of which such tax may have been levied.

SEC. 7. All counties and cities bordering on the coast of the Gulf of Mexico are hereby authorized, upon a vote of two-thirds of the taxpayers therein (to be ascertained as may be provided by law), to levy and collect such tax for construction of sea walls, breakwaters or sanitary purposes, as may be authorized by law, and may create a debt for such works and issue bonds in evidence thereof. But no debt for any purpose shall ever be incurred in any manner by any city or county unless provision is made, at the time of creating the same, for levying and collecting a sufficient tax to pay the interest thereon and provide at least 2 per cent as a sinking fund; and the condemnation of the right of way for the erection of such works shall be fully provided for.

SEC. 9. The property of counties, cities and towns owned and held only for public purposes, such as public buildings and the sites therefor, fire engines and the furniture thereof, and all property used or intended for extinguishing fires, public grounds and all other property devoted exclusively to the use and benefit of the public, shall be exempt from forced sale and from taxation; provided, nothing herein shall prevent the enforcement of the vendor's lien, the mechanic's or builder's lien, or other liens now existing.

SEC. 10. The Legislature may constitute any city or town a separate and independent school district. And when the citizens of any city or town have a charter, authorizing the city authorities to levy and collect a tax for the support and maintenance of a public institution of learning, such tax may hereafter be levied and collected, if, at an election held for that purpose, two-thirds of the taxpayers of such city or town shall vote for such tax.

## CHAPTER I.

## OF THE LEVY OF TAXES AND PAYMENT OF OCCUPATION TAXES.

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## ART. 5046. AD VALOREM TAX FOR GENERAL REVENUE PURPOSES. (ACTS OF 1905.)

SECTION 1. FOR THE YEARS 1905 AND 1906, 20 CENTS AND ANNUALLY THEREAFTER  $16\frac{2}{3}$  CENTS ON THE \$100 VALUATION.—That there shall be levied and collected, for general revenue purposes, annually for the years 1905 and 1906 an ad valorem tax of 20 cents, and annually thereafter an ad valorem tax of  $16\frac{2}{3}$  cents on the one hundred dollars of the cash value thereof, estimated in lawful currency of the United States, on all real property situated and on all property owned in the State on the first day of January in each and every year, and on all property sent out of the State prior to the first day of January for the purpose of evading the payment of the taxes thereon, and afterwards returned to the State, except so much thereof as may be exempted by the Constitution and laws of this State or the United States, which cash value shall be estimated in the manner prescribed by law.

SEC. 2. CERTAIN TAX ROLLS FOR 1905 VALIDATED.—All tax rolls for the year 1905 upon which the State ad valorem tax rate for general purposes has been calculated and extended at the rate prescribed in Section 1 of this act, before this act takes effect, and whether said rolls were returned to the county board of equalization on, before or after August 1, 1905, and whether such rolls were examined, corrected and approved by said board before or after this act takes effect, are hereby validated, and all such rolls shall have the same force and effect, and in every respect be as valid as would be had this act been in force at the time said



rolls were made up and returned to said board of equalization, and said rolls been returned to said board on or before August 1, 1905, and all tax collectors are required to collect said tax at the rate provided by Section 1 of this act.

SEC. 3. CORRECTING TAX ROLLS TO CONFORM WITH THIS ACT.—If, when this act takes effect, the tax rolls for any county for the year 1905 have been returned to the county board of equalization, upon which tax rolls the State ad valorem tax for general revenue purposes is calculated and extended at a rate other than as prescribed in Section 1 of this act, said board, if they have not already examined, corrected and approved said rolls, shall not do so, but shall return the same to the tax assessor for correction of the calculation and extension of said tax to conform to Section 1 of this act. If any tax rolls have, when this act takes effect, been approved by the county board of equalization, upon which said tax is calculated and extended at a rate other than is prescribed by Section 1 of this act, then it is hereby made the duty of the tax assessor, if said rolls are still in his possession, to immediately return them to said board. If the tax assessor has sent said rolls to the Comptroller of Public Accounts, the collector and county clerk of his county, respectively, then the Comptroller of Public Accounts and the said tax collector and county clerk, shall, and it is hereby made their duty, immediately to return to said tax assessor the rolls received from him, and said tax assessor shall immediately upon receipt of all said rolls return them to said county board of equalization. The county board of equalization at the regular August, 1905, term of the commissioners court, if said rolls have been returned, or if not then returned, then at a special meeting of said court, to be called and held as soon as practicable after said rolls are returned, shall rescind and revoke its action approving said rolls and return them to the tax assessor for correction of the calculation and extension of said tax to conform to Section 1 of this act. The tax collector shall, within ten days from the date of the return to him by said board of said rolls, correct the same by calculating and extending thereon the State ad valorem tax for general revenue purposes at the rate prescribed in Section 1 of this act, and on or before the eleventh day after the day upon which said rolls were returned to him by said board, the tax assessor shall again deliver to said board said rolls verified by his affidavit as required by Article 5130 of the Revised Statutes, together with all data required by Article 5131 of the Revised Statutes, and said county board of equalization shall, as soon as practicable thereafter, meet and act upon said rolls as directed by Article 5132 of the Revised Statutes. After said rolls have been approved by said board, the tax assessor

shall send one copy of each to the Comptroller of Public Accounts, one copy of each to the collector of his county, and he shall file the other copies in the county clerk's office until the next assessment, when the assessor shall have the right to withdraw them and use as provided in Title 104 of the Revised Statutes.

SEC. 4. ASSESSOR NOT TO RECEIVE PAY UNTIL ROLLS ARE MADE IN ACCORDANCE WITH THIS ACT.—It shall be unlawful for the Comptroller of Public Accounts to give any assessor an order for the amount due him by the State for assessing the State taxes for 1905, as provided by Article 5134 of the Revised Statutes, unless and until said Comptroller shall have received one copy of each of said assessor's rolls duly approved, upon which said State ad valorem tax for general revenue purposes for 1905 is calculated and extended at the rate prescribed in Section 1 of this act. Provided, that no tax assessor shall be entitled to or be paid any compensation whatsoever for making the corrections required by Section 3 of this act.

1. Taxes are burdens and charges imposed by law, upon persons or property to raise money for public purposes. *Clegg vs. State*, 42 Texas, 608.

2. Taxes are the enforced proportional contributions of persons and property, levied by authority of the State for the support of the government and for all public needs. *McFadden vs. Langham*, 58 Texas, 584; *Harris County vs. Boyd*, 70 Texas, 240.

3. The word "tax" means burden, charge or imposition, put or set upon persons or property, for public use. *Ex Parte Cooper*, 3 Tex. App., 493.

4. The essentials of a valid tax are: A levy by competent legislative authority, and a valid assessment by the officer or tribunal to whom this duty is committed by law. *George vs. Dean*, 47 Texas, 73.

5. Taxes are equal and uniform when all persons or class of persons in the territory are taxed at the same rate upon the same value or thing. *Norris vs. City of Waco*, 57 Texas, 635.

6. State taxes are levied by general laws, and are not required to be proven. County taxes are levied by the commissioners court, and must be proven. The tax deed is not admissible to show that the commissioners court levied the county tax. *Greer vs. Howell*, 64 Texas, 688; *Houston vs. Washington*, 41 S. W. Rep., 135.

7. Laws levying taxes for general purposes have no reference to taxes assessed under special authority. *Austin vs. G. & S. F. Ry. Co.*, 45 Texas, 234.

8. A repeal of tax laws does not affect the right of the State to collect taxes levied under them but not collected at the time they are repealed. *Clegg vs. State*, 42 Texas, 605.

9. The words "tax," "taxes" and "taxation," as used in the Constitution, without some qualifying word, apply only to ad valorem taxes. *Taylor vs. Boyd*, 63 Texas, 533.

10. When the order of the county court, imposing the tax within its authority, states that the amount of the tax, and the property upon which it is levied, such order is sufficient. *Labadie vs. Dean*, 47 Texas, 90.

11. No county tax shall be levied except at a regular term of the court and when all the members of the court are present. Article 1540, Revised Statutes of 1895. See also *Free vs. Scarborough*, 70 Texas, 672; 8 S. W. Rep., 490.

## ART. 5047. FOR SCHOOLS. (ACTS OF 1895.)

There shall be levied and collected an annual ad valorem State school tax of 20 cents for the year 1895, and of 18 cents for the years thereafter, on the one hundred dollars of the cash value thereof, estimated in lawful currency of the United States, on all real property situated and on all personal property owned in the State on the first day of January of each year, and all personal property sent out of the State for the purpose of avoiding the payment of taxes thereon and afterwards returned to the State, except so much thereof as may be exempted by the Constitution and laws of this State or the United States, which cash value shall be estimated in the manner prescribed by law.

## ART. 5048. POLL TAX. (ACTS OF 1882.)

There shall be levied and collected from every male person between the ages of twenty-one and sixty years, resident within this State, on the first day of January of each year (Indians not taxed, and persons insane, blind, deaf and dumb or those who have lost one hand or foot, excepted), an annual poll tax of one dollar and fifty cents, one dollar for the benefit of free schools, and fifty cents for general revenue purposes; provided, that no county shall levy more than twenty-five cents poll tax for county purposes.

1. All officers and enlisted men of the Texas National Guard who comply with all their military duties shall be exempt from the payment of poll taxes save the poll tax prescribed by the Constitution for the support of public schools. Section 54, Chapter 131, Acts of the Twenty-eighth Legislature. In order to entitle any company of the Texas National Guard to the exemption specified in the first subdivision of Section 54, the commanding officer of such company shall annually, between the first and twentieth days of January, file with the assessor of taxes of his county a list of all members of his company who have faithfully discharged all their military duties for the year preceding, and who shall have been present at the last three preceding regular meetings of the company for parade or drill, or have been excused for non-attendance thereon by reason of illness; such list shall be verified by the affidavit of such commanding officer. Section 55, Chapter 131, Acts of the Twenty-eighth Legislature.

2. Section 55, Chapter 131, Acts of the Twenty-eighth Legislature, must be strictly complied with before the exemption can be allowed. The list must be made up, sworn to and filed with the tax assessor before January 20th in the year for which the exemption is claimed. Ruling of Comptroller.

3. Each general, field and staff officer and non-commissioned staff officer may file his affidavits with the county officers named in Sections 55, 56 and 57, respectively (Chapter 131, Acts of the Twenty-eighth Legislature), to the effect that he is a member of the Texas National Guard in good standing, and that he has faithfully discharged all his military duties for the year preceding, when he shall be entitled to the exemptions named in Section 54. Section 58, Acts of the Twenty-eighth Legislature.

4. A person to be exempt from the payment of poll taxes on account of having "lost one hand or one foot" must have actually lost one of those members; the fact that he has lost the use of them does not entitle him to the exemption. Ruling of Comptroller.

5. An ex-convict is not exempt from the payment of poll taxes whether his citizenship has been restored or not. Opinion of Attorney General.



## ART. 5049. OCCUPATION TAXES. (ACTS OF 1897.)

There shall be levied on and collected from every person, firm, company or association of persons pursuing any of the occupations named in the following numbered subdivisions of this article, an annual occupation tax, which shall be paid annually in advance, except when herein otherwise provided, on every such occupation or separate establishment, as follows:

Subdivision 1. *Merchants.*—From every merchant whose annual purchases amount to less than two thousand dollars, three dollars; from every merchant whose annual purchases amount to two thousand dollars or less than five thousand dollars, six dollars; from every merchant whose annual purchases amount to five thousand dollars or less than ten thousand dollars, twelve dollars; from every merchant whose annual purchases amount to ten thousand dollars or less than fifteen thousand dollars, twenty dollars; from every merchant whose annual purchases amount to fifteen thousand dollars or less than twenty-five thousand dollars, twenty-five dollars; from every merchant whose annual purchases amount to twenty-five thousand dollars or less than fifty thousand dollars, sixty dollars; from every merchant whose annual purchases amount to fifty thousand dollars or less than one hundred and fifty thousand dollars, one hundred and twenty-five dollars; from every merchant whose annual purchases amount to one hundred and fifty thousand dollars or less than two hundred and fifty thousand dollars, one hundred and fifty dollars; from every merchant whose annual purchases amount to two hundred and fifty thousand dollars or less than five hundred thousand dollars, two hundred dollars; from every merchant whose annual purchases amount to five hundred thousand dollars or less than seven hundred and fifty thousand dollars, two hundred and fifty dollars; from every merchant whose annual purchases amount to seven hundred and fifty thousand dollars or more, three hundred dollars. Every person, firm, corporation or association of persons desiring to sell goods, wares or merchandise within this State shall, before pursuing such occupation, pay the tax for one year and take out a license to pursue the occupation of the merchant of the class to which he properly belongs, according to his annual purchases, as provided by law, and shall file with the tax collector an affidavit of the amount of his annual purchases for the past year, if previously engaged in such business, or a part of a year, if engaged in such business less than a year, and also of the estimated amount of his annual purchases for the ensuing year. Said affidavit shall be filed and preserved by the tax collector as a part of the records of his office, and shall be in substance as follows, viz.:

"The undersigned, as the representative of . . . . ., doing business at . . . . ., Texas, do solemnly swear that the estimate made of the annual purchases of said concern of goods, wares and merchandise for the next ensuing year does not exceed . . . . . thousand dollars. I further swear that the annual purchases of said concern for the past . . . . . months did not exceed the sum of . . . . . thousand dollars."

Said affidavit shall be signed and sworn to before some officer authorized to administer oaths, and for this purpose the tax collector of counties, cities and towns are hereby authorized to administer oaths.

Sub. 2. *Merchants Moving from Place to Place.*—From every merchant who may remove from place to place and offer for sale "bankrupt stocks" of goods, or advertising "fire sales," or "water and fire damaged stocks for sale," for a limited period of time, there shall be collected one hundred dollars per month for the first month, or less than a month, for each and every place where such business is located; and for each additional month that such sales are continued, at any given place, said merchant shall pay an additional sum of twenty dollars; provided, that where they remain for six months in one place, in addition to the one hundred dollars charged for the first month, they shall pay an additional sum of ten dollars per month; and provided further, that if they remain in one place for the period of twelve months, they shall be required to pay, in addition to the one hundred dollars for the first month, the sum fixed in the preceding paragraph, according to class and amount of goods sold in one year.

Sub. 3. *Peddlers of Patent Medicines.*—From every traveling person selling patent or other medicines, one hundred dollars; and no traveling person shall so sell until said tax is paid; provided, that this tax shall not apply to commercial travelers, drummers or salesmen making sales, or soliciting trade for merchants engaged in the sale of drugs or medicines by wholesale.

Sub. 4. *Fortune Tellers.*—From every fortune teller, ten dollars; from every clairvoyant or mesmerist, who plies his or her vocation for money, ten dollars for each and every county in which such vocation is carried on.

Sub. 5. *Brokers and Bankers.*—From every person, firm or association of persons engaged in discounting or shaving paper, or engaged in business as money brokers or bankers, or dealers in stocks, securities or bills of exchange, or in buying or selling bonds, State, county or city warrants, or other claims against the State, an annual tax of fifty dollars.

Sub. 6. *Photograph Gallery.*—From every operator or owner of any

daguerrean, photograph, or other like gallery, by whatever name called, an annual tax of ten dollars.

Sub. 7. *Auctioneers*.—From every auctioneer, an annual tax of ten dollars.

Sub. 8. *Toll Bridge*.—From every keeper of a toll bridge, an annual tax of seven dollars.

Sub. 9. *Ship Broker*.—From every person, firm or association of persons following the occupation of ship brokers or ship agents, an annual tax of ten dollars.

Sub. 10. *Commission Men*.—From every person, firm or association of persons selling on commission, ten dollars.

Sub. 11. *Land Agent*.—From every land agent there shall be collected an annual tax of five dollars. The term "land agent" shall be construed to mean any person, firm or association of persons performing for compensation any of the following services: purchasing or selling real estate for others; purchasing or selling land certificates for others. But this term "land agent" shall not be construed so as to levy a tax upon an attorney in addition to the one hereinafter levied.

Sub. 12. *Attorneys*.—From every person practicing law, and from every conveyancer or other person drawing deeds or other legal instruments for pay, five dollars; provided, that attorneys-at-law shall only pay county occupation tax in the county of his or their residence.

Sub. 13. *Traveling Physicians, etc.*—From every physician, surgeon, oculist or medical or other specialist of any kind, traveling from place to place in the practice of his profession, an annual tax of fifty dollars; from every dentist, five dollars.

Sub. 14. *Local Physician*.—From every local practicing physician, surgeon, veterinary surgeon, or any medical or surgical specialist, an annual tax of five dollars.

[NOTE.—This subdivision repealed. See Chapter CLXXX, Acts of the Twenty-sixth Legislature.]

Sub. 15. *Shooting Gallery*.—From every person or firm keeping a shooting gallery at which a fee is paid or demanded, an annual tax of thirty dollars in each county.

Sub. 16. *Knife Rack, etc.*—From every person or firm keeping a knife, cane or doll rack, or any other device upon which rings are pitched, or at which balls are thrown, an annual tax of twenty-five dollars.

Sub. 17. *Billiard Tables*.—From every billiard, pool table, or anything of the kind used for profit, twenty dollars; and any such table used in connection with any drinking saloon or other place of business where intoxicating liquors, cigars or other things of value are sold or

given away, or upon which any money or other thing of value is paid, shall be regarded as used for profit.

Sub. 18. *Pools*.—From any person or persons who shall sell pools on horse races or other contests, five dollars for each and every day they may so sell said pools.

Selling pools on horse races prohibited except on the day and within the enclosure where such races are run. Chapter 165, Acts of the Twenty-ninth Legislature.

Sub. 19. *Nine or Ten Pin Alley*.—From every nine or ten pin alley or any other alley used for profit, by whatever name called, constructed or operated upon the principle of a bowling alley, and upon which balls, rings or other devices used as substitutes thereof are rolled, without regard to the number of pins used, or whether pins are used or not, or whether the balls, rings or other devices are rolled by hand or with a cue or any other device, one hundred dollars. Any such alley used in connection with any drinking saloon, or any drug store, or with any drug store where intoxicating liquors are sold, or given away, or upon which money or anything of value is paid, shall be regarded as used for profit.

Sub. 20. *Hobby Horses*.—From all persons keeping or using for profit any hobby horse, flying-jenny, or device of that character, with or without name, fifteen dollars for each county wherein the same are kept or used.

Sub. 21. *Peddlers*.—There shall be collected by the State annually in advance an occupation tax on all persons or firms pursuing any of the following occupations, towit: From every foot peddler, five dollars in each county in which he peddles; from every peddler with one horse or one pair of oxen, the sum of seven dollars and fifty cents in the county where he peddles; from every peddler with two horses or two pairs of oxen, ten dollars in each county in which said occupation is pursued; from every peddler with sail or other boat in streams along coasts or bays of this State, ten dollars in each county in which said occupation is pursued; provided, that nothing herein contained shall be so construed as to include traveling vendors of literature or traveling vendors of poultry, vegetables, fruits or other country produce exclusively, and fruit trees exclusively.

Every county in this State where any of said occupations are pursued shall be entitled to collect for the use of said county one-half of the amount required to be paid to the State.

[NOTE.—The original Subdivision 21 unconstitutional. Ex Parte Jones, 43 S. W. Rep., 513. Sections 1 and 3 of Chapter 116, Acts of the Twenty-sixth Legislature, the law under which peddlers are now required to pay an occupation tax, are here inserted as Subdivision 21.]



Sub. 22. *Theatres*.—From every theatre or dramatic representation for which pay for admission is demanded or received in towns or cities of 1500 inhabitants or less, one dollar; in towns and cities of 1500 and not over 3000, two dollars; in towns and cities of over 3000 and not less than 5000, three dollars; in towns and cities over 5000 and not over 10,000, four dollars, and in towns and cities of over 10,000 inhabitants, five dollars per day for every day they may perform; provided, that theatrical or dramatic representations given by performers for instruction only, or entirely for charitable purposes, shall not be herein included. Provided, however, that this tax shall not be collected where the performances are exhibited in regularly recognized opera houses or theatres, but in lieu of said tax the managers of said opera houses or theatres shall pay an annual occupation tax of twenty-five dollars.

Sub. 23. *Circus, etc.*—From every circus wherein equestrian or acrobatic feats and performances are exhibited, for which pay for admission is demanded or received, for each performance or exhibition where an admission fee of one dollar is charged, two hundred and fifty dollars; for each performance or exhibition where admission fee of 75 cents is charged, two hundred dollars; for each performance where 50 cents or less is charged, one hundred dollars; provided, that the amount of fee charged for reserved seats shall be considered as a part of such admission fee; provided, that where there is a combination of circus and menagerie, or circus and other exhibitions, the highest tax fixed by this act for any division or department of the combination shall be collected; provided further, that every show or exhibition which advertises itself as a circus or menagerie, or a combination of circus and menagerie, shall be held and construed to be a circus or a menagerie or a circus and menagerie, whether it be such or not.

Sub. 24. *Menageries and Other Shows*.—From every menagerie, wax-works museum, side show or exhibition, whether connected with a circus or not, where a separate fee for admission is demanded or received, ten dollars for every performance or exhibition in which fees for admission are received.

Sub. 25. *Acrobatic Shows*.—From every exhibition where acrobatic feats are performed and an admission fee charged for profit, not connected with the circus or theatre, ten dollars for each performance.

Sub. 26. *Sleight of Hand*.—From every sleight of hand performance or exhibition of legerdemain, not connected with a theatre or circus, twenty-five dollars.

Sub. 27. *Dog Fights*.—From every person bringing off a fight between dogs and bulls, or between bears and dogs, or between bulls and

any other animals, or between dogs and dogs, five hundred dollars for each performance.

Sub. 28. *Cock-pit*.—From every cock-pit, when kept for profit, or upon which any money or anything of value is bet or paid, fifty dollars.

Sub. 29. *Menageries and Other Shows*.—From every menagerie, wax-works or exhibition of any kind where a separate fee for admission is demanded or received, ten dollars for every day on which fees for such admission are received; provided, that exhibitions by associations organized for promotion of art, science, charity or benevolence, shall be exempt from taxation; and provided further, that persons who form a museum composed entirely of the products of Texas shall have the right to exhibit the same for a fee without paying any occupation tax.

Sub. 30. *Concerts*.—From every concert where a fee for admission is demanded or received, two dollars; provided, that entertainments when given by the citizens for charitable purposes, or for the support or aid of literary or cemetery associations, are exempt.

Sub. 31. *Livery Stables, etc.*—From every livery or feed stable, 30 cents for each stall and 30 cents for each hack, buggy or other vehicle; and from every hack, buggy, dray, wagon or other vehicle let for hire not connected with a livery, feed or sale stable, two dollars; from every wagon yard used for profit, five dollars.

Sub. 32. *Insurance Adjusters and Agents*.—From each and every person acting as general adjuster of losses, or agents of life, fire, marine and accident insurance companies, who may transact any business as such in this State, an annual occupation tax of fifty dollars. By "general agent," as used in this law, is meant any person or firm, representative of any insurance company in this State, or who may exercise a general supervision over the business of such insurance company in this State, or over the local agency thereof in this State, or any subdivision thereof; provided, that when such a general agent acts as a local agent, he shall pay an additional tax as a local agent, as hereinafter provided.

Sub. 33. *Local Insurance Agents*.—From each and every person or firm acting as local agent or agents of life, fire, marine and accident insurance companies, who may transact any business as such in this State, an annual occupation tax of five dollars. By "local agent," as used in this law, is meant any person or firm who may solicit, contract for or receive premiums for insurance in this State for any insurance company or companies, or who may deliver contracts or policies of insurance, including railway agents and employes who may solicit or receive premiums for accident insurance in this State.

Sub. 34. *Same*.—From each and every person or firm acting as local agent or agents of industrial life insurance companies, who may transact

any business as such in this State, an annual tax of two dollars. By "industrial life insurance," as used in this law, is meant insurance adapted to the wants and necessities of the wage-earners, in that the policies are small and the premium collected weekly at the homes of the insured, the maximum policy or [of] insurance written on any one person being one thousand dollars.

Sub. 35. *Lightning Rods*.—From every person, firm or association of persons, dealing in lightning rods, an annual tax of thirty-six dollars to the State and eighteen dollars as county tax to the county in which such business is carried on; and upon every person canvassing for the sale of lightning rods, an annual tax of one hundred dollars to the State and fifty dollars as county tax, in each county in which such canvassing is done.

Sub. 36. *Cotton Brokers, etc.*—From every person, firm or association of persons following the occupation of cotton broker, cotton factor, or commission merchant, in a city of ten thousand inhabitants or over, thirty-five dollars; and in all cities and towns of less than ten thousand inhabitants, an annual tax of eighteen dollars; provided, that a merchant who pays an occupation tax under this law shall not be considered as a cotton broker. A "commission merchant," in the meaning of this article, is every person, firm or association of persons, receiving country produce, horses, cattle, sheep, hogs, grain, corn, hay, lumber, shingles, wood, coal, goods, wares and merchandise, or anything else for sale, to be accounted for to the owner when sold, and charging a commission therefor.

Sub. 37. *Pawnbrokers*.—From every pawnbroker, an annual tax of one hundred and fifty dollars.

Sub. 38. *Cotton, Wool or Hide Buyers*.—From every cotton buyer or buyer of wool or hides, ten dollars; provided, that a merchant who pays an occupation tax, as herein prescribed, shall not be considered a cotton buyer or buyer of wool or hides.

(This subdivision is unconstitutional. *Rainey vs. State*, 53 S. W. Rep., 882.)

Sub. 39. *Sewing Machine Agents*.—From every person, firm, agency, or association of persons dealing in sewing machines, an annual tax of fifteen dollars to the State and seven dollars as a county tax in every county where such business may be carried on; provided, that a merchant who pays an occupation tax, as required by this article, shall not be required to pay this special tax to sell sewing machines when sold in his place of business.

Sub. 40. *Clock Peddlers, etc.*—From every person or firm who peddles out clocks, agricultural implements, cooking stoves or

ranges, wagons, buggies, carriages, surreys and other similar vehicles, washing machines and churns, an annual tax of two hundred and fifty dollars, to be paid in each county in which said occupation is pursued; provided, that a merchant who pays an occupation tax as now required by law shall not be required to pay this special tax for selling the articles named in this section when sold in his place of business. Every county in this State where any of said occupations are pursued shall be entitled to collect for the use of said county one-half of the amount required to be paid to the State.

(The original Subdivision 40 unconstitutional. Ex Parte Overstreet, 46 S. W. Rep., 825. Sections 2 and 3, Chapter 116, Acts of the Twenty-sixth Legislature, a re-enactment of the same law with the constitutional objections eliminated, are here inserted as Subdivision 40.)

Sub. 41. *Express Companies*.—Each and every express company shall annually, on or before the first day of March, through its superintendent or other chief officer or authorized agent, file with the Comptroller of Public Accounts a report under oath, showing the amount of charges and freights within this State paid to or uncollected by such companies on account of money, goods and merchandise carried within this State during the year ending December 31st next preceding, and said express companies, at the time of filing their required report, shall pay to the Treasurer of the State  $1\frac{1}{2}$  per cent of their gross receipts, as shown by their said report. The receipt of the State Treasurer shall be evidence of the payment of such taxes, city or town corporation in this State; provided, that this article shall not be construed to prohibit the levy of State, county and municipal taxes upon the real and personal property of such companies. Each and every express company failing or refusing to file the report herein required, and pay the required taxes, shall forfeit to the State twenty-five dollars for each day said report and payment are delayed. For the purpose of suit to recover the taxes and forfeitures, venue and jurisdiction is hereby expressly conferred on the courts of Travis county, and service upon any agent or officer of such company within this State shall in all respects be held legal and valid.

(This subdivision repealed by Section 1, Chapter 148, Acts of the Twenty-ninth Legislature. Post Chapter 9b, Section 1.)

Sub. 42. *Railroads and Steamboats*.—From every person, firm or association of persons owning or running any railroad cars or steamboats in this State, there shall be collected quarterly, on the first day of January, April, July and October of each year, a tax of 1 per cent on their gross receipts from all their passenger travel within this State.



The said gross receipts to be returned under oath by said owner, agents or manager to the Comptroller, and said tax to be collected by said Comptroller under such regulations as he may prescribe; provided, that nothing herein contained shall authorize the levy of any county or municipal tax upon such person, firm or association of persons.

(This subdivision repealed by Chapter 141, Acts of the Twenty-ninth Legislature. Post Chapter 9c.)

Sub. 43. *Telegraph Companies.*—From every chartered telegraph company doing business in this State, there shall be collected 1 cent for every full rate message sent by any person, firm or association of persons within this State to any person within this State, and one-half that for any message less than a full rate message so sent. This tax to be paid quarterly to the Comptroller on the sworn statement of the chief manager of said company or companies, or any other officer authorized by said companies to make said statement, who shall keep a record of such messages; and the receipt of the Comptroller, under seal, shall be issued to said company or companies, certified copies of which shall be evidence of the payment of the State tax; provided, railroad messages for running their trains and for company use shall not be taxed; and provided further, that nothing herein contained shall authorize the levy or collection of any county or municipal tax upon such chartered companies for messages sent, and messages sent on official business by officers of the United States.

(This subdivision repealed by Section 3, Chapter 148, Acts of the Twenty-ninth Legislature. Post Chapter 9b, Section 3.)

Sub. 44. *Gas Companies.*—From each gas company, manufacturing gas in towns and cities of ten thousand or more inhabitants, thirty-five dollars; in a city or town of less than ten thousand inhabitants, twenty dollars.

(The tax levied by Section 7, Chapter 148, Acts of the Twenty-ninth Legislature, post Chapter 9b, Section 7, is "in addition to all other taxes levied," hence this subdivision is not repealed by said act.)

Sub. 45. *Electric Light Companies.*—From each electric light company operating an electric light plant in a town or city of ten thousand inhabitants or more, thirty-five dollars; in a city or town of less than ten thousand inhabitants, twenty dollars.

(See note under Subdivision 44, which applies to this subdivision.)

Sub. 46. *Water Works.*—From each water works company operating a water works plant in a town or city of ten thousand inhabitants or

more, thirty-five dollars; in a city or town of less than ten thousand inhabitants, twenty dollars.

(See note under Subdivision 44, which applies to this subdivision.)

Sub. 47. *Loan Agents*.—From every person, firm or association of persons loaning money as agent or agents for any corporation, firm or association, either in this State or out of it, an annual occupation tax of one hundred and fifty dollars for the State, for the principal office, and a county tax of fifteen dollars from each agent for each county in which he may do business, and no additional occupation tax shall be levied by any county, city or town in this State.

Sub. 48. *Credit Agencies*.—From each person, party, partnership or corporation engaged in the business of inquiring into and reporting upon the credit or standing of persons engaged in business in this State, or acting as agent or business manager in this State for any such person, party, partnership, joint stock association or corporation, three hundred dollars; and provided, further, that no county, city or town shall levy or collect any occupation tax upon or from any such person, party, partnership, joint stock association or corporation. The payment of this tax, evidenced by the receipt of the Comptroller of Public Accounts, shall exempt the company or party paying the same from the payment of this tax in any other county; and payment of such tax shall not be required of any subagent or correspondent of the party or company carrying on such business in this State.

(The tax imposed by Section 6, Chapter 148, Acts of the Twenty-ninth Legislature, post Chapter 9b, Section 6, is "in addition to all other taxes levied," hence this subdivision is not repealed by said act.)

Sub. 49. *Skating Rinks*.—From each and every owner or keeper of any skating rink, used for profit, twenty-five dollars.

Sub. 50. *Base Ball Parks*.—From every manager of a base ball park in a city or town containing five thousand or more inhabitants, where an admission fee is charged, twenty-five dollars.

Sub. 51. *Laundries*.—From each owner or keeper of every steam laundry, ten dollars.

Sub. 52. *Ice Dealers*.—From each person or corporation, who are wholesale dealers, selling imported or home-made ice to the trade to be sold again, in cities and towns of twenty thousand inhabitants or more, fifty dollars; in cities and towns of less than twenty thousand inhabitants, or more than ten thousand inhabitants, thirty dollars; in cities and town of less than ten thousand inhabitants, and more than five thousand inhabitants, twenty dollars; in cities and towns of less than five thousand inhabitants, ten dollars.

Sub. 53. *Race Tracks*.—From every owner or manager of every race track, one mile or more in length, used for profit, one hundred dollars; from each owner or manager of every race track, one-half mile or less in length, fifty dollars per annum; provided, this shall not apply to race tracks owned by private individuals and used only for training purposes, or in connection with agricultural fairs and expositions.

Sub. 54. *Street Car Companies*.—From every street car company in this State, two dollars per mile on each mile of track owned by said company or corporation.

Sub. 55. *Grain Elevators*.—From each owner or manager of every grain elevator doing business for fees or toll with a capacity of over one hundred thousand bushels, fifty dollars; on each owner or manager of every elevator with a capacity of fifty thousand bushels and not over one hundred thousand bushels, twenty-five dollars.

Sub. 56. *Phonographs, etc.*—From each owner or manager of every phonographic, electric battery, graphophone or other like machines or instruments, where a fee is charged, an annual tax of twenty-five dollars; provided, that when an electric battery is used by a regularly authorized physician on a patient no tax shall be charged.

Sub. 57. *Kinetoscopes, etc.*—From each owner or keeper of every kinetoscope, cinematograph or similar machine or instrument used for profit, which shows the lifelike motions of persons or animals, an annual occupation tax of twenty-five dollars.

Sub. 58. *Panoramas*.—From each owner, manager or keeper of every panorama or view show, used for profit, exhibiting in a wagon, room, tent or elsewhere, an annual occupation tax of ten dollars and a county occupation tax of two dollars per annum. A panorama or view show in the meaning of this act is a show exhibiting pictures, statuary or other works of art which are viewed through stereoscopic or magnifying lenses.

Sub. 59. *Dealers in Cotton Seed Oil*.—From every person, firm or association who are wholesale dealers in cotton seed oil or any of the products of cotton seed, selling such to the trade, a tax of twenty-five dollars; provided, that this tax shall not apply to a merchant who sells other goods and merchandise and pays an annual occupation tax therefor.

Sub. 60. *Exhibitions for Sale of Medicine, etc.*—From each owner, manager or keeper of every show or company of persons giving exhibitions of music, songs, recitations, sleight of hand, gymnastic, dancing or other kinds of performances in a tent, house or elsewhere, which said exhibitions are used for profit by sale of medicines, electric belts or other articles of value, whether charge is made only for seats or not, an annual

occupation tax of fifty dollars and a county occupation tax of two dollars and fifty cents for every such performance or exhibition. Provided, this tax shall not be assessed when these performances are given inside the grounds of any State or county fair during the time that said State or county fair is giving its annual exhibition.

Sub. 61. *Commission Merchants*.—From every person, firm or association of persons selling on commission, if in a city of more than ten thousand inhabitants, fifty dollars; if in a city or town of less than ten thousand inhabitants, twenty-five dollars. This article is intended to cover every person, firm or association of persons selling on samples only, and who do not carry any stock of merchandise or anything else on hand; provided, that this tax shall not apply to commercial travelers or salesmen making sales or soliciting trade from merchants.

Sub. 62. *Cigarette Dealers*.—From all dealers in cigarettes in this State, the sum of ten dollars per annum, a cigarette being within the meaning of this act the same as defined by the laws of the United States government; provided, that this tax shall be in addition to the occupation tax levied on merchants, and any other tax levied under the law; and provided, further, that each dealer shall be required to procure an annual license from the county clerk of the county where he proposes to sell cigarettes which shall be granted for no shorter or longer period than one year; and provided, further, that the license shall describe the house and locality where the dealer proposes to sell cigarettes.

#### ART. 5049a. SUITS TO RECOVER TAX, ETC.

For the purpose of suit to recover the taxes and forfeiture, venue and jurisdiction is hereby expressly conferred upon the courts of Travis county, and service upon any officer or agent of such company within this State shall in all respects be held legal and valid.

#### ART. 5049b. DUTY OF COMPTROLLER IN FURNISHING BLANK OCCUPATION TAX RECEIPTS.

When the Comptroller furnishes collectors with blank occupation tax receipts he shall furnish the commissioners court with the numbers and value of the receipts furnished to their respective collectors, and such courts shall charge their respective collectors with the number and such proportion of the value of the receipts so furnished, as shall apply to the county tax, when such collectors shall make their settlements with the Comptroller. The Comptroller shall furnish the commissioners court with the numbers and value of the receipts returned, and with the amount of the occupation taxes collected by their respective collectors.



1. The term "occupation" means a vocation, trade or business in which one principally engages to make a living or to obtain wealth. *Love vs. State*, 31 T. Cr. R., 469.

2. The term "firm," as used in this article, is interchangeable with the term "company" or "corporation." *Ex Parte Butin*, 28 T. Cr. R., 304.

3. The tax is imposed upon the firm itself without restriction as to the number of agents or vehicles it employs in pursuing its occupation. *Ex Parte Butin*, 28 T. Cr. R., 304.

4. A medical specialist who has two places of business between which he divides his time in attending professional calls, is not traveling from place to place in the practice of his profession within the meaning of this article so as to subject him to payment of taxes at each place. *Hairston vs. State*, 37 S. W. Rep., 858.

5. One engaged in what is called a "move wagon," moving furniture for hire, always driving the wagon and loading and unloading it himself, or with such assistance as he may employ, does not let his wagon for hire within the meaning of subdivision 31. *Orr vs. State*, 44 S. W. Rep., 1102.

6. The law imposing an occupation upon lawyers is constitutional. *Langguill vs. State*, 4 T. Cr. App., 312; *Hart vs. State*, 21 T. Cr. App., 318; *Ex Parte Williams*, 31 T. Cr. App., 262.

7. The fact that the State has no authority to enforce the law against national banks does not make it void for want of uniformity. *Brooks vs. State*, 58 S. W. Rep., 1033.

8. The tax is not levied on the vocation of a photographer, but on the owner of a photograph gallery. *Mullinnix vs. State*, 60 S. W. Rep., 768.

9. An order of the commissioners court levying an occupation tax on the occupation taxable by statute is sufficient without specifying each and every occupation on which the tax is levied. *Witherspoon vs. State*, 44 S. W. Rep., 164.

10. The State has power to levy an occupation tax on a pool table run in connection with a saloon, regardless of any profit whatever to the owner thereof. *Wright vs. State*, 53 S. W. Rep., 640.

11. Subdivision 38 unconstitutional because it allows a merchant to become a cotton buyer on payment of a less tax than required of other cotton buyers. *Rainey vs. State*, 53 S. W. Rep., 882.

12. The fact that an eleventh-class merchant runs a dray line in connection with his business as merchant does not relieve him from paying a tax as such merchant. *Edwards vs. State*, 69 S. W. Rep., 144.

13. One manufacturing ice and selling his product is not a dealer within the meaning of subdivision 52 imposing a tax on wholesale dealers in ice. *Egan vs. State*, 68 S. W. Rep., 273.

14. Under the Act of 1899, providing that every person peddling cooking stoves or ranges shall pay an occupation tax, a person acting as manufacturer's agent, taking orders for stoves to be shipped from the factory in another State, and to be delivered and set up by another employe of the manufacturer, is not engaged in peddling stoves within the statute. *Harkins vs. State*, 75 S. W. Rep., 26.

15. One selling ranges by sample, taking orders for future delivery, to be paid for only on such delivery, and who does not deliver the goods sold, is not a peddler within Chapter 116, Acts of 1899. *Potts vs. State*, 74 S. W. Rep., 31.

16. A foreign manufacturer made buggies and shipped them into the State in original packages, some of which contained buggies complete, others containing parts thereof. The buggies were then put together by the manufacturer's agent and peddled by him through the State. When a buyer desired a vehicle not in stock, the agent sent the order to the manufacturer, who shipped to the buyer. Held that the agent was properly convicted for peddling without first obtaining a license therefor. *Saulsbury vs. State*, 63 S. W. Rep., 568.

17. A physician residing in one town and maintaining an office in another, in which he practices medicine as a specialist, is not a specialist traveling from place to place within the meaning of subdivision 13. *Broiles vs. State*, 68 S. W. Rep., 685.

18. The tax to be paid by a merchant is based on amount of estimated purchases for ensuing year and not on amount of past year. *Opinion of Attorney General*.

19. An undertaker who merely embalms the body and otherwise prepares it

for burial is not liable for an occupation tax; but if he keeps a stock of coffins, shrouds and other material on hand which he uses in his business and which he exposes for sale, and holds himself out to the public as a dealer in coffins, shrouds, etc., he would be liable for the tax even though he bought the coffins untrimmed and decorated them himself. Opinion of Attorney General.

20. Proprietors of hotels who keep cigars and tobacco or either for sale are liable for the merchant's occupation tax. Ruling of Comptroller.

21. A palmist is liable for the occupation tax imposed on fortune tellers. Ruling of Comptroller.

22. A fortune teller or palmist is liable for the State tax to be paid once per annum in any county, and also a county occupation tax in each county in which the occupation is pursued. Ruling of Comptroller.

23. The tax for the State and also for the county imposed on clairvoyants and mesmerists is collectible in each and every county in which such vocation is carried on. Ruling of Comptroller.

24. The occasional purchase or discounting of a note as an investment would not subject a person to the tax under subdivision 5, but if he holds himself out to the public, directly or indirectly, as a dealer, whether his transactions are numerous or not, or whether his chief occupation is some other business or not, he would be liable for the tax. Opinion of Attorney General.

25. "Dealers," as that term is used in subdivision 5, does not include within its meaning persons who receive a commission only for their services. Opinion of Attorney General.

26. A real estate dealer is required to pay the county tax in each county in which he does business. The State tax is payable only one time annually and can be paid in any county. Opinion of Attorney General.

27. Persons traveling and selling patent or other medicines in connection with a concert or other performance must pay the tax imposed by subdivision 3, and also the tax imposed by subdivision 60. Opinion of Attorney General.

28. Each member of a firm of lawyers must pay the full occupation tax under subdivision 12. Opinion of Attorney General.

29. Under the clause exempting venders of poultry, vegetables, fruits, etc., peddlers of bananas, going from place to place or from town to town in a wagon, are exempt from the payment of an occupation tax. Opinion of Attorney General.

30. A general insurance agent doing a general insurance business, having no fixed headquarters in this State from which he conducts his business and to which reports are made, is not required to pay either a city or a county occupation tax. If such agent has headquarters in this State, the city and county in which such headquarters are located would have the right to collect the tax. Opinion of Attorney General.

31. A person employed by a general insurance agent to appoint local agents, adjust losses and audit accounts of local agents, is neither a general nor a local agent within the meaning of subdivisions 32 and 33 and is not subject to any tax. Ruling of Comptroller.

32. Operator of a magic lantern or stereopticon is not subject to the payment of an occupation tax. Ruling of Comptroller.

33. A local insurance agent is liable for the annual State tax to be paid once per annum in any county and also a county occupation tax in each and every county in which he transacts any insurance business; provided, the county has levied a tax on such occupation. Opinion of Attorney General.

34. A criminal prosecution is the proper proceeding against a person pursuing a taxable occupation without payment of the tax. The county attorney is not entitled to any commissions on the tax collected when he brings suit to collect same. Opinion of Attorney General.

35. A company owning and operating a waterworks plant and also an electric light plant, is liable for the tax as a waterworks company and also a similar tax as an electric light company. Opinion of Attorney General.

36. A person who merely loans his own money is not subject to the tax imposed by subdivision 47. A life insurance agent who makes loans of money belonging to or controlled by the company he represents is liable for the tax. Ruling of Comptroller.

37. If the wholesale house keeps a warehouse at a different point from its place of business, at which warehouse or storehouse goods are kept, to be distributed and delivered to persons to whom they have been sold at the regular

place of business of the wholesale house, no sales being made at such warehouse or storehouse, or other business conducted there except to deliver and distribute from that point goods sold at the wholesale house or regular place of business, in such case the wholesale dealer would not be liable to the occupation tax as a merchant at the place of location of such warehouse or storehouse.

If, however, any sales are made at such warehouse or storehouse, or anything done in connection with the sale of the goods other than merely to store the same and deliver and distribute them, when sold at the wholesale house, or main place of the wholesale dealer, in such case such so-called warehouse or distributing point would be a separate establishment within the meaning and intention of Article 5049, Revised Statutes, and liable to payment of occupation tax.

Whether the wholesale dealer is liable depends upon the facts, and whether the *real nature* of his business at the so-called distributing point bring him within the one or other of the cases stated above.

It does not at all follow that because no books are kept at such so-called distributing point that no sales are made there. Opinion of Attorney General.

## ART. 5049c. OCCUPATION TAX ON PERSONS DEALING IN UNEARNED WAGES. (ACTS 1905.)

SECTION 1. ANNUAL TAX \$5000.—There is hereby imposed an annual occupation tax of five thousand dollars for State purposes upon every person who, in his own behalf or as agent for another, shall engage in the business of taking, purchasing or procuring assignments or transfers of wages not earned or not due and payable at the date of such assignment or transfer, whether such assignment or transfer is made absolutely, conditionally or as security, for each separate county in which such person may engage in such business, either in his own behalf or as agent of another.

SEC. 2. COUNTY AND INCORPORATED CITY OR TOWN MAY IMPOSE TAX EQUAL TO ONE-HALF OF STATE TAX.—The commissioners court of any county of this State shall have the power to levy and collect from every person who shall engage in the business mentioned in Section 1 of this act, either in his own behalf or as agent for another, a tax equal to one-half of the State tax herein levied, which sum when collected shall be added to the road and bridge fund of said county. Any incorporated city or town in this State shall have the power to levy and collect a tax upon every person engaging in the business mentioned in Section 1 of this act, either in his own behalf or as the agent of another, equal to one-half the State tax herein imposed.

SEC. 3. BUSINESS DEFINED.—Any person shall be deemed to be engaged in the business referred to in Section 1 of this act, who shall take, accept, purchase or procure, directly or indirectly, either in his own behalf or as the agent of another, more than three such assignments or transfers during any calendar month. Provided, that this act shall not apply to or impose a tax upon any person, firm or corporation, taking, accepting, purchasing or procuring such assignments or transfers to pay or secure the purchase price of the necessities of life for the family of

the assignor or of the purchase price of a homestead of the assignor, or of improvements or repairs thereon, or for any article necessary for the use of the assignor in the pursuit of his employment, or for the payment of life or accident insurance premiums, dues or assessments where such assignments or transfers are made directly to the person, firm or corporation from whom such purchases are made or to whom such premiums, dues or assessments are payable, or where such assignment made for any such purposes shall not be taken or accepted at a discount.

SEC. 4. PERSONS PAYING TAX TO GIVE BOND; CONDITIONS OF BOND, ETC.—The State tax imposed by this act shall be paid annually to the tax collector of the county for which such tax is paid, who shall not accept such payment until the person offering to pay the same shall have filed with the county clerk of said county a good and sufficient bond in the sum of five thousand dollars, signed by him as principal and by at least three good and solvent sureties, to be approved by the county judge of said county, conditioned that the principal will not take, accept, purchase or procure any assignment or transfer mentioned in Section 1 of this act, at a rate of profit or discount, or at a price which will yield a greater rate of interest than 10 per cent per annum on the amount paid for such assignment or transfer; and that in case of any violation of this condition, the person selling or giving such assignment or transfer may recover from the principal and sureties upon said bond double the amount of the wages so assigned or transferred.

SEC. 5. PENALTY FOR VIOLATION OF ACT.—Any person who shall violate any of the terms or provisions of this act, or who shall directly, or as an agent for another, engage in the business mentioned in Section 1 of this act, without first paying the tax or taxes herein imposed, shall be deemed guilty of a misdemeanor and shall be fined not exceeding one thousand dollars or be imprisoned in the county jail not exceeding three months, or by both such fine and imprisonment, and each violation of this act shall constitute a separate offense.

#### ART. 5050. COUNTY AD VALOREM, ETC. (ACTS OF 1885.)

The commissioners courts of the several counties of this State shall have the power to levy, for county revenue purposes, a tax of one-fourth of 1 per cent, and for roads and bridges 15 cents on the one hundred dollars valuation of all property subject to a State tax by the provisions of this title, and for the payment of debts incurred prior to September, 1883, and for the erection of public buildings and other permanent improvements they shall have power to levy a tax not to exceed 25 cents on the one hundred dollars valuation in any one year, and for the improvement of public roads a tax not to exceed 15 cents on the one hun-



dred dollars valuation under the restrictions provided in Chapter 7 of Title 97, and shall have power to levy a special tax for the further maintenance of public free schools, and the erection within each school district of school buildings therein in counties not exempt from the district school system; provided, that two-thirds of the qualified property tax-paying voters of the district, voting at an election to be held for that purpose, shall vote such tax not to exceed in any one year 20 cents on the one hundred dollars valuation of the property subject to taxation in such district, and shall have the right to levy one-half of the occupation tax levied by the State upon all occupations not herein otherwise specially exempted; provided, any one wishing to pursue any of the vocations named in this chapter, upon which a county occupation tax may be levied, may do so by paying the same quarterly; and provided further, the receipt of the proper officer under seal shall be prima facie evidence of the payment of such taxes as are herein named; and provided further, the provisions of this law shall not be deemed to affect the provisions of any law specially authorizing any commissioners court to levy a different rate of tax; and provided further, no person shall be allowed license for selling intoxicating or spirituous liquors, or for keeping any nine or ten pin alley, or billiard, bagatelle, pigeon-hole, jenny-lind, devil-among-the-tailors table, or anything of the kind used for profit, for a period of less than twelve months; and provided further, the mayor and board of aldermen of any incorporated town or city shall in no case levy a greater tax on any occupation than that authorized by this chapter to be levied by the county commissioners court; and be it further provided, that in all cases where any dealer in merchandise, wares or goods of any kind, subject to ad valorem or occupation taxes, or both, under the provisions of this law, who shall after the rendition of said merchandise, wares or goods for taxation, or after becoming liable for any occupation tax, become bankrupt or make assignment of said merchandise, wares or goods, then the collector of taxes shall at once present to the receiver or assignee of said dealer for payment of the amount due for said taxes by said dealer, and in case of failure of said receiver or assignee to at once pay the amount of said taxes, the said collector shall levy upon, seize and sell from the said merchandise, wares or goods, enough to satisfy the amount of said taxes, and said taxes until paid shall constitute a prior lien on said merchandise, goods and wares in default of said taxes.

1. Order by county commissioners court held sufficient as a levy of county tax. Dawson vs. Ward, 71 Texas, 72; C. R. & C. Co. vs. Roberts County, 27 S. W. Rep., 737.

2. An order to levy a specified tax "for courthouse and jail" sufficiently indicates its purpose. Ranch & Cattle Co. vs. Roberts County, 27 S. W. Rep., 737.

3. A tax can not be levied at a called session of the commissioners court or without the full membership of the court. Revised Statutes, Article 1540; Free vs. Scarborough, 70 Texas, 672.

4. The commissioners court may order and collect a tax for the county equal to one-half of the State occupation tax. No particular form for such order is prescribed by law. Wade vs. State, 22 T. Cr. App., 629.

5. Municipal corporations can not levy an occupation tax not authorized by the statutes or its charter. Laredo vs. Lowry, 4 App. C., 320.

6. That portion of this article, to wit: "Provided, any one wishing to pursue any of the vocations named in this chapter, upon which county occupation tax may be levied, may do so by paying the same quarterly," is repealed by Chapter 18, Acts of the First Called Session of the Twenty-fifth Legislature. The county occupation tax must be paid annually in advance on occupations upon which the State tax is payable annually. Opinion of Attorney General.

#### ART. 5051. TAXES PAYABLE ONLY IN MONEY. (ACTS OF 1897.)

The taxes herein levied by this chapter are hereby made payable in the currency or coin of the United States; provided, that persons holding scrip issued to themselves for services rendered the county may pay their county ad valorem taxes in such scrip.

1. County ad valorem taxes may be paid in county or jury scrip. Wharton County vs. Ahldag, 84 Texas, 12.

#### ART. 5052. COLLECTOR TO KEEP BOOKS, ETC. (ACTS OF 1879.)

The collector of taxes shall keep a book of such size and character as may be necessary, in which shall be entered quarterly, at the following dates, to wit, January 1, April 1, July 1 and October 1, or within ten days thereafter, in which to require the returns to be made under the provisions of this chapter, the several amounts as shown by such returns for which and upon which any person, firm or association of persons is or may be liable to a tax upon occupations under Article 5049, and within fifteen days from the time of receiving and making up the several amounts and the sums due upon such amounts as occupation tax, the collector shall forward to the Comptroller of Public Accounts a transcript or duplicate of the return and the amount as shown by his record, this transcript and record from which it is taken to show the amount of such quarterly returns and the tax due thereon from every person, firm or association of persons liable to such tax; provided, that nothing contained in this article is intended to affect the liability which, in the absence of this statute, would be incurred under any special enactment of this State.

## ART. 5053. TAX COLLECTOR TO BE FURNISHED WITH BOOKS, ETC. (ACTS OF 1879.)

The Comptroller of Public Accounts shall be authorized and required to furnish tax collectors the necessary books and blanks required to be used by such collectors under the provisions of this chapter.

1. If the Comptroller refuses to furnish the tax collector with blank license, he may be compelled to do so by mandamus. *Tax Collector vs. Finley*, 88 Texas, 515.

## ART. 5054. TAX TO BE PAID BEFORE OCCUPATION BEGINS. (ACTS OF 1879.)

The payment of the specific tax herein provided for shall be required by the collector of taxes to be made before any person, firm or association of persons shall be allowed to engage in any occupation requiring a license under the provisions of this law, this payment to be made for a period not less than three months. All arrearages of taxes that may be due by reason of any such business having been carried on shall be a lien upon all the stock and fixtures owned or used in or making a part of any business or vocation liable to such tax under the provisions of this chapter, and which lien shall authorize the collector to sell, after due notice, so much stock or other personal property of any person, firm or association of persons owing taxes under the provisions of this chapter, as will satisfy such claim, together with the cost of such proceeding.

1. Under Article 5049 of the Revised Statutes, as amended by Chapter 18, Acts of the First Called Session of the Twenty-fifth Legislature, the tax is required to be paid annually, hence that portion of this Article, to wit, "this payment to be made for a period of not less than three months," is repealed. Ruling of Comptroller.

2. A person required to pay an occupation tax must pay it before pursuing his occupation. *Lewis vs. State*, 14 T. Cr. App., 230; *Curry vs. State*, 28 T. Cr. App., 447.

## ART. 5055. OCCUPATION TAX RECEIPTS FURNISHED COLLECTORS. (ACTS OF 1879.)

The Comptroller shall cause occupation tax receipts for each occupation to be printed, with his signature, for all occupations payable to the collectors, annual receipts for those that are paid annually, and quarterly receipts for all that can be paid quarterly; such receipts shall state the name of the occupation and the amount of the tax, and have blanks for the year, month and name of licenses, and also have a blank space for signature of the collector; these receipts shall each have a stub attached, stating briefly the substance of the attached receipt, and shall be bound

in books; and he shall forward to each collector a proper number of said receipts, and charge him with the amount represented therein, and cause him to account therefor. The collector, whenever collecting any occupation tax, shall fill the blanks in the receipt and stub by writing thereon the time for which he collects and the name of the licensee, and shall sign the receipt and stub officially, and no person shall pursue any occupation unless he has a receipt, signed, as herein provided, by the Comptroller and collector; and every person, firm or corporation keeping an office or having a local place of business shall keep posted up in a conspicuous place his or their said licenses. .

ART. 5056. LICENSE, TRANSFER OF. (ACTS OF 1885.)

Any person, firm, corporation or association of persons who shall be the legal owners or holders of any unexpired occupation license issued in accordance with the laws of this State, shall be and are hereby authorized to transfer the same on the books of the officer by whom the same was issued.

1. A transfer of an occupation license without having an entry made on the books of the officer who issued it is valid as between the parties. *Cox vs. Trent*, 20 S. W. Rep., 1118; *Michelson vs. White*, 25 S. W. Rep., 801.

ART. 5057. PURCHASER OF UNEXPIRED LICENSE MAY PURSUE OCCUPATION, WHEN, ETC. (1b.)

The assignee or purchaser of such unexpired occupation license shall be authorized to pursue such occupation under such unexpired license for and during the unexpired term thereof; provided, that such assignee or purchaser shall, before following such occupation, comply in all other respects with all the requirements of the law provided for in original applications for such licenses; and provided further, that nothing in this law shall be so construed as to authorize two or more persons, firms, corporations or associations of persons to follow the same occupation under one license at the same time; and provided further, that whenever any person, firm, corporation or association of persons following an occupation shall be closed out by legal process, the occupation license shall be deemed an asset of said person, firm, corporation or association of persons, and sold as other property belonging to said person, firm, corporation or association, and the purchaser thereof shall have the right to pursue the occupation named in said license or transfer it to any other person; provided, such occupation license shall under no circumstances be transferred more than one time.



1. As to sale of occupation license under legal process and the purchaser's right to carry on the business under it, see *Nelson vs. Cockrell*, 3 App. C., 448.

#### ART. 5058. REVENUE AGENT—DUTIES. (ACTS OF 1899.)

The Governor is authorized to appoint a suitable person as revenue agent for the State for the purpose of securing a better enforcement of the revenue laws of the State. The agent provided for herein shall be known as the State Revenue Agent. Said Revenue Agent shall be subject to the direction of the Governor, who may, whenever in his judgment the public service demands it, direct the said Revenue Agent to investigate books and accounts of the assessing and collecting officers of this State, and all officers and persons disbursing, receiving or having in their possession public funds, and to make such other investigations and perform such other duties in the interest of the public revenues as the Governor may direct. Whenever any such investigation is ordered by the Governor the Revenue Agent shall report to him in writing the results of such investigation, and point out the particulars, if any, wherein the revenue laws have been violated, their enforcement neglected, together with the names of the parties delinquent therein. Whereupon the Governor shall institute civil and criminal proceedings, through the Attorney-General, in the name of the State, against such delinquent parties who are reported by such agent to be delinquent. Said Revenue Agent shall have power at any time to examine and check up all and any disbursements or expenditures of money appropriated for any of the State institutions or for any other purpose or for any improvements made by the State on State property, or money received and disbursed by any board authorized by law to receive and disburse any State money. Said Revenue Agent shall also have power and authority, and it is hereby made his duty, to fully investigate any and all State institutions when so directed by the Governor or required by information coming to the knowledge of said agent. He shall investigate the manner of conducting the same and the policy pursued by those in charge thereof, and the conduct or efficiency of any person employed therein by the State. He shall examine into and report upon the character and manner, as well as the amount of expenditures thereof. He shall also investigate and ascertain all sums of money due the State from any source whatever; the ascertainment and collection of which does not devolve upon other officers of this State under existing law. And he shall report all such facts to the Governor, who shall proceed therein as provided by this or any other law of this State.

ART. 5059. SHALL HAVE ACCESS TO BOOKS, ETC. (ACTS  
OF 1891.)

When said Revenue Agent acting under the direction of the Governor calls on any person connected with the public service to inspect his accounts, records or books, said officers or official so called upon shall submit to said agent all books, records and accounts so called for without delay.

ART. 5060. COMPENSATION, ETC. (Ib.)

Said Revenue Agent shall receive as compensation for his services not exceeding two thousand dollars per annum, together with his actual traveling expenses, which shall be paid on the approval of the same by the Governor; provided, said Revenue Agent shall not be allowed traveling expenses for any service connected with the examination and investigation of the accounts of any institution in Travis county.



## CHAPTER 1A.

## SALE OF LIQUORS REGULATED.

	Art.		Art.
Occupation tax for the sale of spiritu-		County clerk to report application for	
ous, etc., liquors.....	5060a	license to State Revenue Agent.....	5060f
Counties may levy.....	5060b	Licensee to execute bond conditions of	
Prerequisite to the issue of license to		bond, etc. ....	5060g
sell . ....	5060c	Habitual drunkard defined.....	5060h
License to issue, when.....	5060d	Producers of domestic wines exempt.....	5060i
License to issue for one year, and shall		Sale of liquors in local option coun-	
designate place of sale, etc.....	5060e	ties; bond . ....	5060j

## ART. 5060a. OCCUPATION TAX FOR THE SALE OF SPIRITUOUS LIQUORS, ETC. (ACTS OF 1897.)

Hereafter there shall be collected from every person, firm, corporation, or association of persons, selling spirituous, vinous or malt liquors, or medicated bitters capable of producing intoxication, in this State, not located in any county, subdivision of a county, justice precinct, city or town, where local option is in force under the laws of Texas, an annual tax of three hundred dollars on each separate establishment, as follows: For selling such liquors or medicated bitters in quantities of one gallon or less than one gallon, three hundred dollars; for selling such liquors or medicated bitters in quantities of one gallon or more than one gallon, three hundred dollars; provided, that in selling one gallon the same may be made up of different liquors in unbroken packages aggregating not less than one gallon; for selling malt liquors exclusively, fifty dollars. And there shall be collected from every person, firm, corporation, or association of persons, for every separate establishment selling such liquors or medicated bitters within this State and located within a county, subdivision of a county, justice precinct, town or city, in which local option is in force under the laws, the sum of two hundred dollars; provided, the same shall not be sold in such locality except on prescription and in compliance with the laws governing sales in such localities; provided further, that nothing in this article shall be so construed as to exempt druggists who sell spirituous, vinous, or malt liquors, or medicated bitters capable of producing intoxication, on the prescription of a physician or otherwise in either locality as above set forth from the payment of the tax herein imposed; provided further, that this article shall not apply to the sale by druggists of tinctures and drug compounds, in the preparation of

which such liquors or medicated bitters are used and sold on the prescription of a physician or otherwise, and which tinctures and compounds are not intoxicating beverages prepared in the evasion of the provisions of this chapter nor the local option law.

1. A conductor in charge of a sleeping car on which there is a bar at which drinks are retailed to passengers must pay an occupation tax. *La Norris vs. State*, 13 T. Cr. App., 33.

2. Social clubs furnishing liquors to their members only are not liable for an occupation tax. *State vs. Austin Club*, 33 S. W. Rep., 113.

3. Before a party can sell liquor in a local option territory he must have the required license to sell on prescription. *Watson vs. State*, 57 S. W. Rep., 102.

#### ART. 5060b. COUNTIES MAY LEVY. (ACTS OF 1893.)

The commissioners court of the several counties in this State shall have the power to levy and collect from every person or association of persons selling spirituous, vinous or malt liquors, or medicated bitters, a tax equal to one-half the State tax herein levied; and where any such sale is made in any incorporated city or town, such city or town shall have the power to levy and collect a tax upon such sale equal to that levied by the commissioners court of the county in which such city or town is situated.

#### ART. 5060c. PREREQUISITE TO THE ISSUE OF LICENSE TO SELL. (ACTS OF 1897.)

Every person, firm, corporation, or association of persons desiring to engage in the sale of spirituous, vinous or malt liquors, or medicated bitters capable of producing intoxication, in this State, as set forth in Article 5060a of this chapter, shall, before commencing the sale of such liquors or medicated bitters, file with the county clerk of the county in which he or they propose to sell the same, an application under oath, on forms provided by the Comptroller, and shall designate the place in which it is proposed to engage in the sale of such liquors or medicated bitters, if any city or town in which streets are named and houses numbered, the street and number of house shall be given, and the quantities in which he or they propose to sell, whether one gallon or more, or one gallon and less than a gallon, or whether they desire to sell malt liquors exclusively; provided, in localities where local option is in force not more than one quart shall be sold at one time to the same person; and shall also state in said application whether said liquors or medicated bitters are to be sold to be drunk on the premises, or to be sold on prescription in a local option county, subdivision of a county, justice precinct, town or city; and shall pay to the collector of taxes of the county in which

such sales are to be made the full amount of the annual tax herein levied, and such as may be levied by the commissioners court of such county and the city or town in which sales are to be made; and shall file with the said clerk a bond as required by Articles 5060g and 5060j of this chapter. In case the sales are to be made in a city or incorporated town, the taxes by such city or town shall be paid to the collector of taxes of such city or town. All taxes herein levied or which may be levied by a county, city or town, shall be paid in advance, and upon the payment of same and full compliance herewith, the county clerk of the county shall issue to the person, firm, corporation, or association of persons, a license as provided for in Article 5060d of this chapter, which said license and licenses or receipts for the tax or revenues issued by the United States shall be posted by licensee in a conspicuous place in his or their place of business, and on failure to so post such license or receipt, he or they so failing shall be considered as having no license and subject to all the pains and penalties as if no such license had issued.

1. Liquor dealers' license must designate the particular place and house in which liquors are to be sold. *Southard vs. Green*, 59 S. W. Rep., 839.

#### ART. 5060d. LICENSE TO ISSUE, WHEN. (ACTS OF 1893.)

Upon filing the sworn application as provided in Article 5060c, and paying to the collector the annual State and county tax herein provided for, and filing such bond as is required by Article 5060g, the county clerk of said county shall issue to said applicant a license to sell spirituous, vinous or malt liquors, or medicated bitters, at the place and in the manner and quantities set forth in the application, and no sale shall be made until such license is procured. The receipt of the tax collector shall be evidence of the payment of the tax. For issuing licenses herein provided for, county clerks shall be entitled to charge a fee of 25 cents for each license.

#### ART. 5060e. LICENSE TO ISSUE FOR ONE YEAR, AND SHALL DESIGNATE PLACE OF SALE, ETC. (Ib.)

No license shall be granted for a longer or shorter period than one year. The particular place and house in which the liquors are to be sold shall be designated in the license, and no license shall authorize any person to sell spirituous, vinous or malt liquors, or medicated bitters, at any other place or house than that designated in the license; provided, that if any person or association of persons having a license to sell such liquors, desires to change his or their place of business, such change may be made by presenting the license to the clerk of the county and having

the new place of business inserted therein, but in no case to admit of the temporary closing of one place of business to sell at another place.

ART. 5060f. COUNTY CLERK TO REPORT APPLICATIONS  
FOR LICENSE TO STATE REVENUE AGENT. (Ib.)

The county clerk in each and every county in this State shall, between the first and tenth day in each month, forward to the State Revenue Agent a sworn statement, giving the names of all persons who have filed applications for license during the preceding month, and the tax collector of each county shall keep a register in which shall be entered the names of all persons paying taxes under this chapter, with the date of payment, and shall, between the first and tenth day of each month, make to the State Revenue Agent a sworn report, giving the names of all persons who have paid a liquor tax during the preceding month, and the character of tax paid by each. The reports provided for in this article shall be made upon blank forms to be furnished by the Comptroller.

ART. 5060g. LICENSE TO EXECUTE BOND; CONDITIONS OF  
BOND, ETC. (ACTS OF 1901.)

Any person, firm or association of persons, desiring to engage in the sale of spirituous, vinous or malt liquors, or medicated bitters capable of producing intoxication, to be drunk on the premises, shall, before engaging in such sale, be required to enter into bond in the sum of five thousand dollars; provided, however, that any person, firm or corporation of persons dealing exclusively in malt liquors shall be required to give bond only in the sum of one thousand dollars, with at least two good lawful and sufficient sureties, payable to the State of Texas, to be approved by the county judge, conditioned that said person, firm or association of persons so selling spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication, in any quantity, to be drunk on the premises, shall keep an open, quiet and orderly house or place for the sale of spirituous, vinous or malt liquors, or medicated bitters capable of producing intoxication; and that such person, firm, or association of persons, or his agent or their agent or employe, will not sell nor permit to be sold in his or their house or place of business, nor give nor permit to be given, any spirituous, vinous or malt liquors, or medicated bitters capable of producing intoxication, to any person under the age of twenty-one years, or to a student of any institution of learning, or to any habitual drunkard, or to any person after having been notified in writing, through the sheriff or other peace officer, by a wife, mother, daughter or sister of the person, not to sell to any such person; and that



he or they will not permit any person under the age of twenty-one years to enter and remain in such house or place of business; and that he or they will not permit any games prohibited by the laws of this State to be played, dealt or exhibited in or about such house or place of business; and that he or they will not rent or let any part of the house or place in which he or they have undertaken to sell spirituous, vinous or malt liquors, or medicated bitters capable of producing intoxication, in any quantity, to be drunk on the premises, to any person or persons for the purpose of running or conducting any game or games prohibited by the laws of this State; and that he or they will not adulterate the liquors sold by them in any manner, by mixing with the same any drug; and that he or they will not knowingly sell or give away any impure or adulterated liquors of any kind; which said bond shall be filed in the office of the county clerk of the county where the business is conducted, and shall be recorded by such clerk in a book to be kept for such purpose, for which service the said clerk shall be entitled to a fee of 75 cents; which said bond may be sued on at the instance of any person or persons aggrieved by the violation of its provisions, and such person shall be entitled to recover the sum of five hundred dollars as liquidated damages for each infraction of the condition of such bond, and the said bond shall not be void on the first recovery, but may be sued on until the full penal sum named therein shall have been recovered. In addition to civil proceedings for individual injuries, brought on said bond as above indicated, if any person, firm or association of persons shall violate any of the conditions of the bond herein required, it shall be the duty of the county and district attorneys, or either of them, to institute suit thereupon in the name of the State of Texas for the use and benefit of the county, and the amount of five hundred dollars as a penalty shall be recovered from the principals and sureties upon a breach of any of the conditions thereof; and whenever the first or subsequent bond as required is exhausted by suit at the instance of individuals or for the use of the county a new similar bond shall be given and approved before the dealer shall have the right to further pursue the business of a liquor seller; or in case suit is pending on any such bond, and the county or district attorney shall make and file an affidavit with the clerk of the county court that he believes the bond of the defendant will be exhausted by said suit, the clerk shall at once notify the liquor dealer thereof, and it shall be the duty of the liquor dealer, within twenty days from the time the bond is exhausted, or in other event, within twenty days from the time the notice is given, to give a new bond similar to the first bond given, to be approved in the same way; and until such new bond is given and approved, when it is required by this chapter, the liquor seller shall not



have the right to further pursue the business of selling liquors, and any person, firm or association of persons who shall sell liquors in any quantity, to be drunk on the premises, without giving the first bond, or the new bond as required by this chapter, shall be deemed guilty of a misdemeanor and on conviction shall be fined in the same amount provided for in cases where no license has been obtained. An open house in the meaning of this chapter, is one in which no screens or other device is used or placed either inside or outside of such house or place of business for the purpose of or that will obstruct the view through the open door or place of entrance into any such house or place where intoxicating liquors are sold to be drunk on the premises. A quiet house or place of business, in the meaning of this chapter, is one in which no music, loud or boisterous talking, yelling, or indecent or vulgar language is allowed, used or practiced, or any other noise calculated to disturb or annoy any person residing or doing business in the vicinity of such house or place of business, or those passing along the streets or public highways. By an orderly house is meant one in which no prostitute or lewd woman or women are allowed to enter or remain; and it is further provided, that said house must not contain any vulgar or obscene pictures. Any surety on such bond may relieve himself from further liability thereon by giving the principal in said bond notice in writing that he will no longer remain as surety on said bond and by filing with the county judge an affidavit that such notice has been given, and if within five days after such notice, if he fails to make a new bond, he shall cease to pursue said business until a new bond is given. And any person who shall continue to pursue said business after such affidavit is filed, he shall be guilty of a misdemeanor, and shall be punished as provided in cases where no license has been procured; provided, that where the sale is made in good faith, with the belief that the minor was of age and there is good ground for such belief, that shall be a valid defense to any recovery on such bond; and provided further, that where the sale to an habitual drunkard is made in good faith, with the belief that he was not an habitual drunkard, and there is good ground for such belief, that shall be a valid defense to any recovery on such bond; provided, the provisions of this act shall apply to suits by the State or any individual.

#### ART. 5060h. HABITUAL DRUNKARD DEFINED.

An habitual drunkard, within the meaning of this chapter, is one who makes it a habit, or who habitually becomes intoxicated by the voluntary use of intoxicating liquors; and in all suits for the breach of such bond for unlawfully selling to an habitual drunkard, the question whether

or not such person is an habitual drunkard shall be determined by the court or jury trying such case, as any other fact.

#### ART. 5060i. PRODUCERS OF DOMESTIC WINES EXEMPT.

The provisions of this chapter shall not apply to wines produced from grapes grown in this State, while the same is in the hands of the producers or manufacturers thereof.

#### ART. 5060j. SALE OF LIQUORS IN LOCAL OPTION COUNTIES; BOND. (ACTS OF 1897.)

Every person, firm, corporation, or association of persons, before engaging in the sale of spirituous, vinous or malt liquors, or medicated bitters capable of producing intoxication, in any county, subdivision of a county, justice precinct, town or city, in which local option is in force, shall enter into bond in the sum of \$2500, with at least two good and sufficient sureties, payable to the State of Texas, to be approved by the county judge of the county in which such sales are to be made, conditioned that said person, firm, corporation, or association of persons, so selling spirituous, vinous or malt liquors, or medicated bitters capable of producing intoxication, shall not sell in any quantity, except on the prescription of a regular practicing physician, addressed to such person, firm, corporation, or association of persons, written with ink on white paper in the handwriting of such physician, dated, numbered, and signed by such physician, giving his and applicant's place of residence, and certifying on his honor, that he has in person carefully examined the applicant or patient, and that he finds him or her actually sick, giving the malady or disease with which he or she is suffering, as near as he can ascertain, and that he or she is in immediate need of an alcoholic stimulant, such as prescribed; and there shall not be sold more than one quart on any one prescription, which shall be sold at one time and in one package, and delivered to the purchaser at time of sale; and that he or they shall not permit the same to be drunk on the premises where sold, nor on any other premises owned or controlled by him or them; and that he or they shall not sell more than once on the same prescription, and shall not sell on any prescription bearing the same number of another prescription given by the same physician and dated during the same year; and that he or they shall not sell on a prescription bearing date more than three days prior to the date of its presentation nor upon the prescription of a physician not known to him or them to be a regular practicing physician, authorized under the laws of Texas to practice his profession, nor permit a minor to remain on his premises or his place of

business, except the house or place of business of a regular pharmacist; and that he or they shall not permit any games prohibited by the laws of this State to be played, dealt, or exhibited in or about such house or place of business; and that he or they shall not rent or let any part of the house or place of business or premises in which or on which they are selling such liquors or medicated bitters, to any one, for the purpose of carrying on any business in violation of the local option laws or the penal laws of the State; and that he or they shall not adulterate the liquors or medicated bitters sold by him or them, nor knowingly sell or give away such adulterated liquors; and that he or they shall keep an open, orderly house, and shall not use any screen or other device for the purpose of or which shall obstruct the view through the door or doors opening out on the street or alley; which said bond shall be filed in the office of the county clerk of the county where such business is carried on, and recorded by him in a book to be kept for that purpose; and for recording same he shall receive a fee of 75 cents. For every breach or violation of any of the provisions of said bond, the person, firm, corporation, or association of persons, and the sureties on said bond, shall be liable in damages to any person, firm, corporation, or association of persons, injured thereby. In addition to the proceedings by parties sustaining damages by the violation, it shall be the duty of the county and district attorneys to institute suit in the name of the State of Texas for each and every infraction or violation thereof, for the use and benefit of the county, and the sum of \$250 shall be recovered for each infraction, against the principal and sureties on said bond, as liquidated damages, which said sum shall be paid into the county treasury and become a part of the road fund of said county. Said bond shall not be void on the first recovery, but may be sued upon for each infraction thereof until the full penal sum named therein shall be exhausted. If said bond shall be exhausted or become in danger of being exhausted by suits, said person, firm, corporation, or association of persons, shall be required to execute another bond; notice of such requirement shall be given by the county judge of the county, and such parties shall have ten days after notice to comply, and upon failure to do so shall be subject to all the pains and penalties from the time such notice was given as if no bond had been given in the first instance. Provided, that in case the county judge shall fail to give the notice herein required, then any citizen of the county, over the age of twenty-one years, may do so, and in case of failure to execute another bond within the time required, as above set forth, said person may bring suit in the district court of the county to require such person, firm, corporation, or association of persons, to execute a new bond. Provided, further, that in case the sureties on such bond shall become insolvent,

or found to be insolvent after the execution of such bond, it shall be the duty of the county judge of the county to require of them a new bond, the same as above set forth, and in case of his failure to do so, any citizen, as above set forth, may proceed in the district court aforesaid to compel them to execute such bond, and in case the insolvency of said sureties or either of them is established, which shall be done under the rules of evidence governing other like cases, or in case it is shown that said bond is exhausted or in danger of being exhausted by suit, said court shall enter up its judgment requiring said parties to enter into a new bond within ten days from the date of the judgment, and adjudge the cost against defendants, and assess a reasonable attorney's fee against them as cost. In case of an appeal from such judgment the bond shall be in an amount sufficient to cover all costs and damages, to be fixed by the judge trying the cause; and in addition to the conditions now required in appeal bonds, be conditioned further to pay all damages occasioned by the breach or violation of the local option and penal laws of the State from the date of the institution of the suit until the final termination of such suit. In case appellants are cast in the suit and the same is finally determined against him or them, said appeal bond may be sued upon and recoveries had the same as provided in this chapter and article for suits and recovery on the original bond. Provided further, that when suit is instituted hereunder by a citizen, the suit shall be prosecuted without bond for cost on [or] appeal bond.

## CHAPTER II.

### OF THE PROPERTY SUBJECT TO TAXATION AND THE MODE OF RENDERING THE SAME.

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#### ART. 5061. ALL PROPERTY TO BE TAXED. (ACTS OF 1876.)

All property, real, personal or mixed, except such as may be herein-after expressly exempted, is subject to taxation, and the same shall be rendered and listed as herein prescribed.

1. Where a leasehold is taxed, its value should be deducted from the taxable interest of the owner. *Dougherty vs. Thompson*, 71 Texas, 192.

2. The effect of this article and Articles 5062, 5063, 5064 and 5065 is to subject to taxation in addition to tangible property all moneys actually belonging to the taxpayer and any excess that may exist of his credits over his indebtedness. *Griffin vs. Heard*, 78 Texas, 607.

3. The lease for a term of years of a city waterworks is liable for taxes on the value of the leasehold interest, and not on the value of the property leased. *State vs. Taylor*, 72 Texas, 297.

#### ART. 5062. REAL PROPERTY INCLUDES WHAT. (Ib.)

Real property, for the purpose of taxation, shall be construed to include the land itself, whether laid out in town lots or otherwise, and all the buildings, structures and improvements, or other fixtures of whatsoever kind thereon, and all the rights and privileges belonging or in any wise appertaining thereto, and all mines, minerals, quarries and fossils in and under the same.



1. The value of a railroad is not the mere value of its right of way, road-bed, and superstructure, its depot grounds and structures thereon considered by themselves, but the value of these as an operating "going concern"; this value being in general determinable by the profits which result from its operations. The franchise of a railroad is not taxable as a property separate from its real estate; to so tax it would lead to double taxation, which is not permitted. *State vs. A. & N. W. Ry. Co.*, 94 Texas, 530.

## ART. 5063. PERSONAL PROPERTY INCLUDES WHAT. (ACTS OF 1879.)

Personal property shall, for the purposes of taxation, be construed to include all goods, chattels and effects, and all moneys, credits, bonds and other evidences of debt owned by citizens of the State, whether the same be in or out of the State; all ships, boats and vessels belonging to inhabitants of this State, if registered in this State, whether at home or abroad, and all capital invested therein; all moneys at interest, either within or without this State, due the person, to be taxed over and above what he pays interest for, and all other debts due such persons over and above their indebtedness; all public stock and securities; all stock in turnpikes, railroads, canals and other corporations (except national banks) out of the State, owned by inhabitants of this State; all personal estate of moneyed corporations, whether the owners thereof reside in or out of this State, and the income of any annuity, unless the capital of such annuity be taxed within the State; all shares in any bank organized or that may be organized under the law of the United States; all improvements made by persons upon lands held by them, the title to which is still vested in the State of Texas, or in any railroad company, or which have been exempted from taxation for the benefit of any railroad company or any other corporations, or any other corporation whose property is not subject to the same mode and rule of taxation as other property.

1. Credits, such as notes, are taxable at the place of the residence of the owner. *Ferris vs. Kimble*, 75 Texas, 476; *Connor vs. City of Waxahachie*, 13 S. W. Rep., 30.

2. Money on deposit in a bank by a receiver is subject to taxation. *Campbell vs. Riviere*, 22 S. W. Rep., 993.

3. A bank share is not a debt due its owner, and his debts can not be deducted from it in arriving at his taxable property. *Rosenberg vs. Weeks*, 67 Texas, 578; *Primm vs. Fort*, 57 S. W. Rep., 89.

4. When a person residing in another State has an agent in this State, who conducts the business of his principal, and has notes in his hands for collection and renewal, with a view of keeping up a permanent business, the situs of the notes for taxation is in this State at the place where the agent resides. *Jesse French Piano & Organ Company vs. City of Dallas*, 61 S. W. Rep., 942.

5. This article standing alone permits the deduction of all indebtedness, but it is modified by Article 5081, which specifically designates certain classes of indebtedness which shall not be deducted. *Primm vs. Fort*, 57 S. W. Rep., 91.

6. A deposit subject to sight check is regarded by the tax law of this State as cash, and is not subject to offset by the liabilities of the taxpayer. *Campbell vs. Wiggins*, 2 T. C. A., 1.

7. Securities deposited by a foreign guaranty and surety company with the State Treasurer, as required by the Acts of the Twenty-fifth Legislature, page 244, Chapter 165, held subject to taxation in Travis county. *State vs. Fidelity & Deposit Co.*, 80 S. W. Rep., 544.

8. Taxpayers in rendering credits due them for taxation are entitled to deduct therefrom the amounts due the State by them for school lands held under contract for purchase. Opinion of Attorney General.

9. The intangible personal property of the ward is taxable against the guardian and at the place of the guardian's residence. Opinion of Attorney General.

#### ART. 5064. DEFINITION OF TERMS. (ACTS OF 1876.)

*"Money."*—The term "money" or "moneys," wherever used in this title, shall, besides money or moneys, include every deposit which any person owning the same or holding in trust and residing in this State, is entitled to withdraw in money on demand.

*"Credits."*—The term "credits," wherever used in this title, shall be held to mean and include every claim and demand for money or other valuable thing, and every annuity or sum of money receivable at stated periods, due or to become due, and all claims and demands secured by deed or mortgage, due or to become due.

*"Tract or Lot."*—The term "tract or lot" and "piece or parcel" of real property, and piece and parcel of land, wherever used in this title, shall each be held to mean any quantity of land in possession of, owned by or recorded as the property of the same claimant, person, company or corporation.

*"Singular and Plural."*—Every word importing the single number only may extend to and embrace the plural, and every word importing the plural number may be applied and limited to the singular number; and every word implying the masculine gender only may be extended and applied to females as well as males.

*"Oath."*—Wherever the word "oath" is used it shall be held to mean oath or affirmation; and the word "swear" may be held to mean affirm.

*"Town or District."*—The words "town or district," wherever used, shall be held to mean village, city, ward or precinct, as the case may be.

*"Value."*—The term "true and full value," wherever used, shall be held to mean the fair market value, in cash, at the place where the property to which the term is applied shall be at the time of assessment, being the price which could be obtained therefor at private sale, and not at forced or auction sale.

*"Person."*—The term "person" shall be construed to include firm, company or corporation.

## ART. 5065. EXEMPTIONS FROM TAXATION. (ACTS OF 1905.)

The following property shall be exempt from taxation, towit:

1. "*Schools and Churches.*"—Public school houses and houses used exclusively for public worship, the books and furniture therein and the grounds attached to each building necessary for the proper occupancy, use and enjoyment of the same, and not leased or otherwise used with a view to profit. All public colleges, public academies, all buildings connected with the same and all the lands immediately connected with public institutions of learning and all endowment funds of institutions of learning not used with a view to profit and all buildings used exclusively and owned by persons or association of persons for school purposes. This provision shall not extend to leasehold estates of real property held under authority of any college or university of learning.

2. "*Cemeteries.*"—All lands used exclusively for grave yards or grounds for burying the dead, except such as held by any person, company or corporation with a view to profit or for the purpose of speculation in the sale thereof.

3. "*Public Property.*"—All property, whether real or personal, belonging exclusively to this State or any political subdivision thereof, or the United States.

4. "*County Buildings.*"—All buildings belonging to counties for holding courts, for jails or for county offices with the land belonging to and on which such buildings are erected.

5. "*Poor Houses.*"—All lands, houses and other buildings belonging to any county, precinct or town, used exclusively for the support or accommodation of the poor.

6. "*Public Charity.*"—All buildings belonging to institutions of purely public charity, together with the lands belonging to and occupied by such institutions not leased or otherwise used with a view to profit, unless such rents and profits and all moneys and credits are appropriated by such institutions solely to sustain such institutions and for the benefit of the sick and disabled members and their families and the burial of the same, or for the maintenance of persons when unable to provide for themselves, whether such persons are members of such institutions or not.

"*Institution of Purely Public Charity Defined.*"—An institution of purely public charity, under this act, is one which dispenses aid to its members and others in sickness or distress, or at death, without regard to poverty or riches of the recipient, also when the funds, property and assets of such institutions are pledges and bound by its laws to relieve,

aid, and administer in any way to the relief of its members when in want, sickness and distress and provides homes for its helpless and dependent members and to educate and maintain the orphans of its deceased members or other persons.

7. "*Fire Engines, Etc.*"—All fire engines and other implements owned by towns and cities used for the extinguishment of fires with the buildings used exclusively for the safe keeping there.

8. "*Market Houses, Etc.*"—All market houses, public squares or other public grounds, town or precinct houses or halls used exclusively for public purposes, and all works, machinery or fixtures belonging to any town and used for conveying water to such town.

9. "*Public Libraries.*"—All public libraries and personal property belonging to the same.

10. "*Furniture.*"—All household and kitchen furniture not exceeding at their true and full value two hundred and fifty dollars to each family, in which may be included one sewing machine.

11. "*Pensions.*"—All annual pensions granted by the State, or United States.

1. Farm products in the hands of the producer and family supplies for home and farm use are exempt from taxation. Constitution, Article 8, Section 19.

2. The word "building" is construed to embrace the land used in connection with it. Ground used for the recreation of the students and to supply the school table with vegetables, which was necessary and used for the proper and economical conduct of the school, is exempt. *Cassiano vs. Ursuline Academy*, 64 Texas, 673.

3. The exemption of buildings used for school purposes does not apply to land cultivated in a farm cultivated in connection with a boarding school. *St. Edward's College vs. Morris*, 82 Texas, 1; *Cassiano vs. Academy*, 64 Texas, 676; *Red vs. Morris*, 72 Texas, 554; *Morris vs. Masons*, 68 Texas, 698.

4. A house used for school purposes and a residence is not exempt. *Edmonds vs. City of San Antonio*, 36 S. W. Rep., 495.

5. School lands belonging to the county are not subject to taxation. The leasehold can not be taxed as the property of the lessee. *Dougherty vs. Thompson*, 71 Texas, 192; 9 S. W. Rep., 99; *Davis vs. Burnett*, 77 Texas, 3; 13 S. W. Rep., 613; *Land & Cattle Co. vs. Board*, 80 Texas, 489; 16 S. W. Rep., 312.

6. The exemption of "public property used for public purposes" applies to property ownership of which is in the State or some one of its municipal subdivisions. *St. Edward's College vs. Morris*, 82 Texas, 1; 17 S. W. Rep., 512.

7. Lessee of city waterworks is liable for taxes on value of leasehold interest; not on value of the property. *State vs. Taylor*, 72 Texas, 297; 12 S. W. Rep., 176.

8. Land held under lease from the State which reserves the right in the State to sell, not subject to taxation against the lessee. *Trammell vs. Faught*, 74 Texas, 558; 12 S. W. Rep., 317.

9. Lessee of land from the State under absolute lease for term of years is liable for taxes upon the leasehold estate at such value as it would bring at a fair voluntary sale for cash, but not for value of the freehold estate. *Trammell vs. Faught*, 74 Texas, 558; 12 S. W. Rep., 317.

10. Where school land is purchased and first payment made, it is subject to taxation, though the patent has not issued and the title is still in the State. *Hindes vs. State*, 67 S. W. Rep., 467.

11. Until the Commissioner of the General Land Office selects one of the two surveys made by virtue of a Confederate land certificate, the title to the land



remains in the State, and it is not subject to taxation. *Abney vs. State*, 47 S. W. Rep., 1043.

12. When a building is used exclusively for school purposes, the fact that teachers and others connected with the school and their families live in such building does not prevent it from being exempt from taxation. On the other hand, if the head of the family is engaged in some other business than teaching school in the building which is claimed to be exempt from taxation, the fact that a school is carried on in the building in which he lives does not exempt it from taxation. Opinion of Attorney General.

13. A separate building situated on the same or adjacent property to that upon which the main school building stands and owned by those who own the school building and occupied by those only who are connected with the school, is exempt from taxation. Opinion of Attorney General.

14. In order for school property to be exempt from taxation it must be used in fact for school purposes. A plat of ground held for the purpose of erecting a school building at some future time would not be exempt. Opinion of Attorney General.

15. School lands held under contract for the purchase thereof from the State are subject to taxation as the property of the person by whom they are so held. Opinion of Attorney General.

16. State school lands do not become taxable until they have been awarded to the applicant by the Commissioner of the General Land Office. Opinion of Attorney General.

17. A church parsonage is not exempt from taxation. Opinion of Attorney General.

18. Lands held by institutions of learning as investment of endowment funds are not exempt from taxation. Opinion of Attorney General.

19. Masonic, Knights of Pythias, Odd Fellows and other like orders are not "institutions of purely public charity" within the meaning of the Constitution, and their property is not exempt from taxation. That part of the Act of 1905 which attempts to exempt the property of such orders is unconstitutional. Opinion of Attorney General.

20. Young Men's Christian Association buildings are not exempt from taxation. They are not houses used exclusively for public worship nor institutions of learning within the meaning of this article. Ruling of Comptroller.

21. Lands devised to a town incorporated for free school purposes only and held as part of its school fund are, by Section 9 of Article 11 of the Constitution, exempt from taxation. Opinion of Attorney General.

#### ART. 5066. WHEN PROPERTY TO BE RENDERED. (ACTS OF 1899.)

All property shall be listed for taxation between January 1 and June 1 of each year, when required by the assessor, with reference to the quantity held or owned on the 1st day of January in the year for which the property is required to be listed or rendered. Any property purchased or acquired on the 1st day of January shall be listed by or for the person purchasing or acquiring it. If any property has, by reason of any special law, contract or fact been exempt, or have been claimed to be exempted from taxation for any period or limit of time, and such period of exemption shall expire between January 1 and December 31 of any year, said property shall be assessed and listed for taxes as other property, but the taxes assessed against said property shall be only for the pro rata of taxes for the portion of such year remaining after the expiration of such claimed period of exemption and shall be so listed on the tax rolls, and taxes shall be collected on such property accordingly.



1. All property owned by a person in this State on the first day of January must be listed for taxation between that date and June 1st of each year, and he is personally liable for the taxes of that year though he sells the property before the amount of such taxes has been ascertained and before payment becomes due. *Carswell vs. Habberzettle*, 13 T. C. R., 399.

2. The owner of the property on the 1st day of January is personally liable for the taxes for that year, though he sells it before time for the collection of the taxes for that year. *Cruiger vs. Ginnuth*, 3 App. C., 24.

#### ART. 5067. HOW TO BE RENDERED. (ACTS OF 1876.)

All property shall be listed or rendered in the manner following:

1. "*By Owner.*"—Every person of full age and sound mind, being a resident of this State, shall list all of his real estate, moneys, credits, bonds or stock of joint stock or other companies (when the property of such company is not assessed in this State), moneys loaned or invested, annuities, franchises, royalties, and all other property.

2. "*As Agent.*"—He shall also list all lands or other real estate, all moneys and other personal property invested, loaned or otherwise controlled by him as agent or attorney, or on account of any other person, company or corporation whatsoever, and all moneys deposited subject to his order, check, or drafts and credits due from or owing by any person, body corporate or politic.

3. "*Minor.*"—The property of a minor child shall be listed by his guardian, or by the person having such property in charge.

4. "*Wife.*"—The property of a wife, by her husband, if of sound mind; if not, by herself.

5. "*Idiot.*"—The property of an idiot or lunatic, by the person having charge of such property.

6. "*Cestui Que Trust.*"—The property of a person for whose benefit it is held in trust by the trustee of the estate; of a deceased person, by the executor or administrator.

7. "*Receivers.*"—The property of corporations whose assets are in the hands of receivers, by such receivers.

8. "*Corporations.*"—The property of a body politic or corporate, by the president or proper agent or officer thereof.

9. "*Copartnership.*"—The property of a firm or company, by a partner or agent thereof.

10. "*Manufactories.*"—The property of manufacturers and others in the hands of an agent, by such agent, in the name of his principal, as real, personal and merchandise.

11. "*Nurseries.*"—The stock of nurseries, growing and otherwise, in the hands of nurserymen, shall be listed and assessed as merchandise.

## ART. 5068. WHERE TO BE RENDERED. (ACTS OF 1897.)

All property, real and personal, except such as is required to be listed and assessed otherwise, shall be listed and assessed in the county where it is situated, and all personal property subject to taxation and temporarily removed from the State or county, shall be listed and assessed in the county of the residence of the owner thereof, or in the county where the principal office of such owner is situated.

1. Personal property belonging to either a corporation or a natural person must be assessed and the taxes thereon paid in the county where it is situated, unless such county has not been organized, in which event the assessment must be made and the taxes collected in the county to which it is attached for judicial purposes. *Cattle Co. vs. Faught*, 69 Texas, 402; 5 S. W. Rep., 494.

2. Credits are taxable at the place of residence of the owner, and not at the place where they may be deposited. *Ferris vs. Kemble*, 75 Texas, 476; 12 S. W. Rep., 689.

3. Cattle are to be taxed in the county where being pastured on January 1st, and not in the county where the owner resides. *Clampitt vs. Johnson*, 42 S. W. Rep., 866.

4. Non-residents loaning money in this State are not subject to taxation upon the money so loaned. *Primm vs. Fort*, 57 S. W. Rep., 972.

5. Notes belonging to a foreign corporation held in this State by an agent who conducts the business of his principal are subject to taxation in this State. *Jesse French Piano & Organ Co. vs. City of Dallas*, 61 S. W. Rep., 942.

6. The assessor of one county has no right to assess money of a party which is in a bank of a county other than that in which the assessor resides. *Parker vs. State*, 69 S. W. Rep., 76.

7. The rule is that the situs of tangible personal property for taxation is where it is situated, and intangible personal property where the owner resides. Accordingly, the owner of notes, bonds, credits, etc., should render the same in the county of his residence, without regard to where such property is kept or deposited. Ruling of Comptroller.

## ART. 5069. TO BE RENDERED IN BUT ONE COUNTY. (ACTS OF 1879.)

Lands lying on county boundaries, which have not been accurately and legally surveyed, determined or fixed, shall not be assessed or taxed in more than one county.

ART. 5070. LIVE STOCK, WHEN AND HOW RENDERED.  
(ACTS OF 1889.)

All persons, companies and corporations owning pastures in this State which lie on county boundaries, shall be required to list for assessment all live stock of every kind owned by them in said pastures in the several counties in which such pastures are situated, listing in each county such portion of said stock as the land in such county is of the whole pasture. All persons, companies and corporations owning any kind of live stock in pastures not their own shall list said live stock in the several counties in which such pastures are situated in the same manner; and in both

cases the tax upon such live stock shall be paid to the tax collectors of the several counties in which such live stock is listed and assessed.

1. Under this article stock must be assessed in each county in such proportion as the land in the county bears to the whole pasture. *Cammack vs. Matar Land & Cattle Co.*, 70 S. W. Rep., 455.

2. Cattle running on the range in more than one county are taxable in the county where the owner resides. Ruling of Comptroller.

#### ART. 5071. TAXES NOT TO BE PAID TWICE. (ACTS OF 1879.)

Any lands which may have been assessed in any county according to the abstract of land titles, and the taxes paid thereon according to law, shall not be afterwards subject to the payment of taxes for the same period in a different county, although a subsequent survey and determination of the county boundaries may show said lands to be in a different county from that in which they were originally assessed; and any sales of such lands for alleged delinquency shall be illegal and void.

#### ART. 5072. VESSELS, WHERE LISTED. (ACTS OF 1876.)

All persons, companies and corporations in this State owning steamboats, sailing vessels, wharf-boats and other water crafts, shall be required to list the same for assessment and taxation in the county in which the same may be enrolled, registered or licensed, or kept when not enrolled, registered or licensed.

#### ART. 5073. RAILROADS AND TELEGRAPHS. (Ib.)

All railroad, telegraph, plank road and turnpike companies shall list all of their real and personal property, giving the number of miles of roadbed and line in the county where such roadbed and line is situated, at the full and true value, except when such company may own personal property or real estate in an unorganized county or district, then they shall list such property to the Comptroller.

#### ART. 5074. LISTING FOR OTHERS. (Ib.)

Persons required to list property on behalf of others shall list it in the same manner in which they are required to list their own, but they shall list it separately from their own, specifying in each case the name of the person, estate, company or corporation to whom it belongs.

1. Persons listing property as agents for others are required to list it in the name of the person, estate, company or corporation to whom it belongs. Ruling of Comptroller.

## ART. 5075. SHALL LIST UNDER OATH. (1b.)

Each person required by law to list property shall make and sign a statement, verified by his oath, as required by law, of all property, both real and personal, in his possession, or under his control, and which he is required to list for taxation, either as owner or holder thereof, or as guardian, parent, husband, trustee, executor, administrator, receiver, accounting officer, partner, agent or factor.

## ART. 5076. THE STATEMENT AND ITS REQUISITES. (ACTS OF 1905.)

Such statement shall truly and distinctly set forth:

1. The name of the owner, and a description sufficient for the identification of any real estate belonging to such owner.
2. The number of acres.
3. The value of the land.
4. The number of the lot or lots.
5. The number of the block.
6. The value of town lots.
7. The name of the city or town.
8. The number of miles of railroad in the county.
9. The value of railroads and appurtenances.
10. Number of miles of telegraph in the county.
11. Value of telegraph and appurtenances in the county.
12. Number and amount of land certificates and value thereof.
13. Number of horses and mules and the value thereof.
14. Number of cattle and the value thereof.
15. Number of jacks and jennets and value thereof.
16. Number of sheep and value thereof.
17. Number of goats and value thereof.
18. Number of hogs and dogs and value thereof.
19. Number of carriages, buggies, wagons, automobiles, bicycles, motor cycles, or other vehicles of whatsoever kind and the value of each one thereof.
20. Number of sewing machines and knitting machines and value thereof.
21. Number of clocks and watches and value thereof.
22. Number of organs, melodeons, pianofortes, and all other musical instruments of whatsoever kind and value thereof.
23. The value of household and kitchen furniture over and above the amount of two hundred and fifty dollars.
24. Office furniture and the value thereof.

25. The value of gold and silver plate.
26. The value of diamonds and jewelry.
27. Every annuity or royalty, the description and value thereof.
28. Number of steamboats, sailing vessels, wharf boats, barges or other water craft, and the value thereof.
29. The value of goods, wares and merchandise of every description which such person is required to list as a merchant (in hand on the 1st day of January of each year).
30. Value of materials and manufactured articles which such person is required to list as a manufacturer.
31. Value of manufacturers' tools, implements and machinery other than boilers and engines, which shall be listed as such.
32. Number of steam engines, including boilers, and the value thereof.
33. Amount of moneys of bank, banker, broker or stock jobber.
34. Amount of credits of bank, banker, broker or stock jobber.
35. Money on hand or on deposit, in or out of the State, with banks, trust companies, corporations, firms or individuals, and subject to order, check or draft, including certificates of deposit.
36. Amount of credits other than of bank, banker, broker or stock jobber.
37. Amount and value of bonds and stocks (other than United States bonds).
38. Amount and value of shares of capital stock companies and associations not incorporated by the laws of this State.
39. Value of all property of companies and corporations other than property hereinbefore enumerated.
40. Value of stock and furniture of saloons, hotels and eating houses.
41. Value of every billiard, pigeon hole, bagatelle or other similar tables, together with the number thereof.
42. Every franchise, the description and value thereof.
43. Value of all other property not enumerated above.

1. Description is sufficient when it furnishes the means by which the property can be identified from the description itself, or by use of extrinsic evidence to apply that description to the property. *Eustis vs. City of Henrietta*, 90 Texas, 468; 39 S. W. Rep., 567. See also *Grace vs. City of Bonham*, 2 T. C. R., 698.

2. Where there were two surveys in the same county in the name of the same grantee and for the same number of acres, an assessment against unknown owner, by giving the abstract number, name of original grantee and number of acres, not sufficient. *State vs. Farmer*, 94 Texas, 232.

3. When the property is rendered by the owner, the same fullness of description is not required as if the assessment was against an unknown owner or upon property not rendered by the owner. *Cooper Grocery Co. vs. City of Waco*, 6 T. C. R., 52.

4. When only a portion of a survey is assessed, some further description



than the abstract number, certificate number, survey number, name of original grantee and number of acres is required. *Morgan vs. Smith*, 70 Texas, 641; 8 S. W. Rep., 529.

5. Where the whole of a survey was delinquent, and the whole of it assessed by number and grant, the fact that the number of acres was stated at 640, when it really contained 706, did not render the assessment invalid to any part of the survey. *Kenson vs. Gage*, 9 T. C. R., 725.

6. This article has no application to assessments for city taxes. *Eustis vs. City of Henrietta*, 39 S. W. Rep., 567.

7. Deposit in bank subject to sight check regarded as cash. *Campbell vs. Wiggins*, 20 S. W. Rep., 730.

#### ART. 5077. CERTAIN CREDITS AND STOCKS NOT TO BE LISTED. (ACTS OF 1876.)

No person shall be required to list or render a greater portion of his credits than he believes will be received or can be collected, or to include in his statement as a part of his personal property which is required to be listed any share or portion of the capital stock or property of any company or corporation which is required to list or return its capital and property for taxation.

#### ART. 5078. RENDITION OF REAL ESTATE. (Ib.)

Persons listing or rendering real estate shall make a statement, duly signed and under oath, which shall truly and distinctly set forth:

1. The name of the owner, abstract number, number of survey, the number of the certificate, the name of the original grantee, the number of acres, and the true and full value thereof.

2. The number of the lot and block and the true and full value thereof, together with the name of the town or city.

3. When the name of the original grantee, or abstract number, or number of certificate, or number of survey is unknown, say "unknown," and give such description so that land or lot can be identified and the true and full value thereof can be determined.

#### ART. 5079. ASSESSMENT OF PERSONAL PROPERTY BY RENDITION BY BANKER, BROKER, ETC. (ACTS OF 1895.)

Every bank, whether of issue or deposit, banker, broker, dealer in exchange, or stock jobber, shall at the time fixed by this chapter for listing personal property, make out and furnish the assessor of taxes a sworn statement showing:

1. If a national bank, the president or some other officer of such bank shall furnish to the assessor of the county in which such bank is located a list of the names of all the shareholders of the stock, together with the number and amount of the shares of each stockholder

of stock in said bank, and the shareholders of the stock in national banks shall render to the tax assessor of the county in which said bank is located the number of their shares and the true and full value thereof. All shares of stocks in national banks not rendered to the assessor of taxes in the county where such bank is located within the time prescribed by law for listing property for taxes shall be assessed by the assessor against the owner or owners thereof as unrendered property is assessed; but the tax roll shall show the name of the owner or owners thereof as per statement furnished by the president or other officers of said bank.

2. National banks shall render all other bonds and stocks of every kind, except United States bonds, and all shares of capital stocks or joint stock or stocks of other companies or corporations held as an investment or in any way representing assets, together with all other personal property belonging or pertaining to said bank, except such personal property as is specially exempted from taxation by the laws of the United States.

3. National banks shall be required to render all of their real estate as other real estate is rendered, and all the personal property of said national banks herein taxed shall be valued as other personal property is valued.

4. All other banks, bankers, brokers or dealers in exchange, or stock jobbers shall render their list in the following manner:

1. The amount of money on hand or in transit or in the hands of other banks, bankers, brokers or others subject to draft, whether the same be in or out of the State.

2. The amount of bills receivable, discounted or purchased, and other credits due or to become due, including accounts receivable, interest accrued but not due, and interest due and unpaid.

3. From the aggregate amount of the items named in the first and second of the last two subdivisions shall be deducted the amount of money on deposit.

4. The amount of bonds and stocks of every kind, except United States bonds, and all shares of capital stocks or joint stocks of other companies or corporations held as an investment or in any way representing assets.

5. All other property belonging or appertaining to said bank or business, including both personal property and real estate, shall be listed as other personal property and real estate.

1. All property, both real and personal, of a bank chartered under the laws of Texas is subject to taxation. The shares of stock in such bank are not taxable. *Gillespie vs. Gaston*, 67 Texas, 599; 4 S. W. Rep., 248.

2. The real estate of a bank is to be taxed in its own name, and its personal

property in the names of its shareholders. *Engelke vs. Schlenker*, 75 Texas, 559; 12 S. W. Rep., 999.

3. The object of this article is not to define the property of banks and bankers subject to taxation, but merely to secure a faithful rendition of their assets. It is additional to the provisions of Article 5076, which applies to banks as well as all other taxpayers. *Griffin vs. Heard*, 78 Texas, 607; 14 S. W. Rep., 892.

4. The stockholders of a national bank can not have deducted from the values of their shares of stock, when rendering to the State officer for taxation, the sum of money invested by the bank in United States bonds, or held by the bank in form of legal tender notes. *Adair vs. Robinson*, 25 S. W. Rep., 734.

5. By "the amount of money on deposit" is meant the amount due depositors, and not money belonging to others and held by the bank as bailee. *Griffin vs. Heard*, 78 Texas, 607; 14 S. W. Rep., 892.

6. It is not within the power of the State to subject the property of national banks to taxation without the consent of Congress. *First National Bank of Lampasas vs. City of Lampasas*, 78 S. W. Rep., 42.

7. The stock of a national bank must be assessed for State or city taxation against the owners of such stock, and not against the bank. *First National Bank of Lampasas vs. City of Lampasas*, 78 S. W. Rep., 42.

8. The legality of an assessment of the shares of stock in a national bank is not affected by the custom of the assessor to assess other property at a uniform rate less than its true value, it appearing that such shares were not assessed beyond their true value. *Engelke vs. Schlenker*, 75 Texas, 559; 12 S. W. Rep., 999.

9. The personal property of a national bank is not subject to taxation. This property is otherwise reached by assessing the shares of stock against the stockholders. Section 2 of Article 5079 of the Revised Statutes is, therefore, inoperative. Opinion of Attorney General.

10. The surplus and undivided profits of a national bank are not taxable as such against the bank, but same should be considered by the assessor in arriving at the value of the shares of stock. Ruling of Comptroller.

11. The shares of stock in a State bank chartered under the Act of the Twenty-ninth Legislature are not taxable. Such banks are required to render their property in accordance with the provisions of Section 4, Article 5079 of the Revised Statutes. Ruling of Comptroller.

12. The tax on shares of bank stock is a charge against the shareholder, and levy can be made on any personal property that he has, to enforce collection, by virtue of the tax rolls. Opinion of Attorney General.

13. Levy can not be made on the shares of stock in a bank for taxes on account of the inability of the collector to make a valid levy and sale without taking possession of the property levied on. In case the taxpayer has no property other than the bank stock, suit may be instituted, the lien foreclosed, and the stock subjected to payment of the tax and cost as under execution. Opinion of Attorney General.

#### ART. 5079a. SWORN STATEMENT TO BE FURNISHED BY NATIONAL BANKS; PENALTY. (ACTS OF 1897.)

That if any president, vice president, or cashier of any national bank shall fail or refuse to furnish the tax assessor or deputy tax assessor, when called upon to do so by such tax assessor or deputy tax assessor, a sworn statement, showing:

1. A list of the names of all the shareholders of the stock of such national bank.

2. The number and amount of the shares owned and held by each shareholder of stock in such national bank.

3. The place of residence of each stockholder in such bank, if known. (If not known, that fact shall be so stated.)

4. The amount or amounts of notes issued by such national bank and circulating as money, or that is intended to circulate as money (stating such amounts in dollars).

5. The amount of money on hand or in transit, or in the hands of other banks, bankers, brokers or others, subject to draft, whether the same be in or out of the State.

6. The amount of indebtedness of such bank and how such indebtedness is evidenced.

7. The amount of paper evidencing indebtedness owned by such bank, which was acquired by such bank, either at par or at a discount.

Any such president, vice-president, or cashier of a "national bank" so failing or refusing to furnish such statement, as above required, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars, nor more than one thousand dollars, and by confinement in jail not less than ten days, nor more than thirty days.

#### ART. 5079b. "MONEY AND NOTES" DEFINED. (Ib.)

By the term money and notes, mentioned in the preceding article, is meant all money owned and on hand by such bank, whether on deposit or otherwise.

#### ART. 5080. ASSESSMENT OF REAL ESTATE BY BANKS. (ACTS OF 1885.)

Every banking corporation, State or national, doing business in this State shall, in the city or town in which it is located, render its real estate to the assessor of taxes at the time and in the manner required of individuals. At the time of making such rendition the president or some other officer of said bank shall file with said assessor a sworn statement showing the number and amount of the shares of said bank, the name and residence of each shareholder, and the number and amount of shares owned by him. Every shareholder of said bank shall, in the city or town where said bank is located, render at their actual value to the assessor of taxes all shares owned by him in such bank; and in case of his failure so to do, the assessor shall assess such unrendered shares as other unrendered property. Each share in such bank shall be taxed only for the difference between its actual cash value and the proportionate amount per share at which its real estate is assessed. The taxes due upon the shares of banking corporations shall be a lien thereon, and no



banking corporation shall pay any dividend to any shareholder who is in default in the payment of taxes due on his shares; nor shall any banking corporation permit the transfer upon its books of any share, the owner of which is in default in the payment of his taxes upon the same. Nothing herein shall be so construed as to tax national or State banks, or the shareholders thereof, at a greater rate than is assessed against other moneyed capital in the hands of individuals.

1. The taxable value of bank shares depends upon the value of the franchise, capital and property of all kinds, less the amount of its debts. *Rosenburg vs. Weeks*, 67 Texas, 584; 4 S. W. Rep., 899; *Engelke vs. Schlenker*, 75 Texas, 561; 12 S. W. Rep., 999.

2. The general deposits with a bank are debts against it. *Engelke vs. Schlenker*, 75 Texas, 561; 12 S. W. Rep., 999.

3. The object of this statute is to incorporate in the law of this State the provisions of the Federal statute for the protection of national banks; adding thereto so much as was necessary to accord the same protection to State banks. *Primm vs. Fort*, 57 S. W. Rep., 972.

4. The amount to be deducted from the value of the shares of stock on account of real estate under this article is the assessed value of the real estate, and not its actual value when assessed at less than its actual value. Ruling of Comptroller.

#### ART. 5081. NO DEDUCTION IN CERTAIN CASES. (ACTS OF 1876.)

No person, company or corporation shall be entitled to any deduction on account of any bond, note or obligation of any kind given to any mutual insurance company, nor on account of any unpaid subscription to any religious, literary, scientific or charitable institution or society, nor on account of any subscription to or installment payable on the capital stock of any company, whether incorporated or unincorporated.

1. Under no circumstances can the owners of national bank stock be permitted to deduct their indebtedness from the value of their stock for the purpose of taxation. *Primm vs. Fort*, 57 S. W. Rep., 972.

#### ART. 5082. ASSESSMENT BY RAILROADS. (ACTS OF 1885.)

It shall be the duty of every railroad corporation in this State to deliver a sworn statement, on or before the 1st day of June of each year, to the assessor of each county and incorporated city or town, into or through which any part of their road may run or in which they own or are in possession of real estate, a classified list of all real estate owned by or in possession of said company in said county, town or city, specifying:

1. The whole number of acres of land, lot or lots, exclusive of their right of way and depot grounds, owned, possessed or appropriated for their use, with a valuation affixed to the same.

2. The whole length of the railroad and the value thereof per mile,



which valuation shall include right of way, roadbed, superstructure, depots and grounds upon which said depots are situate, and all shops and fixtures of every kind used in operating said road.

3. All personal property of whatsoever kind or character, except the rolling stock belonging to the company or in their possession in each respective county, listing and describing the said personal property in the same manner as is now required of citizens of this State.

1. Railroad bridges over which the railroad is constructed are not subject to separate assessment; they are included in the roadbed. *Cook vs. G., H. & S. A. Ry. Co.*, 24 S. W. Rep., 544; *Schmidt vs. G., H. & S. A. Ry. Co.*, 24 S. W. Rep., 547.

2. The franchise of a railroad is not taxable as a property separate from its real estate; to so tax it would lead to double taxation, which is not permitted. *State vs. A. & N. W. Ry. Co.*, 94 Texas, 530; 62 S. W. Rep., 1051.

3. The assessment of the intangible personal property of a railroad company, consisting of its rights, privileges, immunities, good will, contracts and franchises to do and carry on its business at lump sum, is invalid. The law does not authorize assessment for taxation by any such vague description of property as "rights, privileges, immunities, good will, contracts and franchises." *Ib.*

#### ART. 5083. RAILROADS TO RETURN SWORN STATEMENTS, WHEN, ETC. (ACTS OF 1885.)

It shall be the duty of every railroad corporation in this State to deliver a sworn statement, on or before the 1st day of April in each year, to the assessor of the county in which its principal office is situated, setting forth the true and full value of the rolling stock of said railroad, together with the names of all the counties through which it runs, and the number of miles of roadbed in each of said counties, and the said assessment shall be submitted to the board of equalization of the county in which its principal office is situated for review, as is provided by Article 5120 of this code and the other laws of this State in respect to boards of equalization, on the 1st Monday in June in each year, or as soon thereafter as practicable, and such board shall certify such final valuation when made, without delay, to the Comptroller of Public Accounts, who shall proceed at once to apportion the amount of such valuation among the said counties in proportion to the distance such road may run through any such county, and shall certify such apportionment to the assessors of such counties, and the same shall constitute part of the tax assets of such counties, and the assessor of each of said counties shall list and enter the same upon the rolls for taxation, as other personal property situated in said county; provided, that any railway company organized, and having its principal office without the State, and which may own or operate, as lessee or otherwise, any line of railroad which is partly within the State and partly without, may render its rolling stock for taxation in the county where such company owning said

railroad has established its office within this State, and a proportional part of such company's rolling stock shall be rendered and assessed for taxation within the State, according to the number of miles of such railway therein, as compared with the number of miles without the State.

1. This article is confined in its application to directing a mode by which railroad rolling stock may be assessed by counties and not to any other political subdivision of the State. Accordingly, such rolling stock is not subject to taxation by school districts through which the road runs. Opinion of Attorney General.

#### ART. 5084. ASSESSMENTS AND COLLECTIONS OF CORPORATE PROPERTY. (ACTS OF 1876.)

All property of private corporations, except in cases where some other provision is made by law, shall be assessed in the name of the corporation, and in collecting the taxes on the same all the personal property of such corporation shall be liable to be seized whenever the same may be found in the county, and sold in the same manner as the property of individuals may be sold for taxes. All statements and lists made by corporations that are required to be sworn to shall be verified by the affidavit and signature of the secretary of said corporation, and if they have no secretary, the officer who discharges the duties of secretary of said corporation.

#### ART. 5085. ASSESSMENTS IN OWNER'S NAME. (Ib.)

All real property subject to taxation shall be assessed to the owners thereof in the manner herein provided, but no assessment of real property shall be considered illegal by reason of the same not being listed or assessed in the name of the owner or owners thereof.

1. When the description in the assessment of land is sufficient to identify it, any mistake in the name of the owner does not affect the tax lien. *Taber vs. State*, 12 T. C. R., 363.

2. When there is an abstract number, the name of the original grantee, number of acres and value, there being no certificate or survey number, a mistake in the name of the owner will not affect the tax lien on the land. *Taber vs. State*, 85 S. W. Rep., 837.

3. Personal property can not be legally assessed to unknown owner. Opinion of Attorney General.

4. Persons listing property as agent for others are required to list it in the name of the person, estate, company or corporation to whom it belongs. Ruling of Comptroller.

#### ART. 5086. LIEN FOR TAXES. (Ib.)

All taxes upon real property shall be a lien upon such property until the same shall have been paid. And should the assessor fail to assess any real estate for any one or more years, the lien shall be good for

every year that he should fail to assess for, and he may, in listing property for taxes any year thereafter, assess all the back taxes due thereon, according to the provisions of this title.

1. Lien for taxes attaches only to separate tract taxed and not to property of taxpayer generally. *Jodon vs. Brenham*, 57 Texas, 657.

2. Lien for taxes given by the Constitution is charge merely upon each separate tract for the tax assessed against it. *State vs. Baker*, 49 Texas, 764.

3. No lien for taxes attaches to land until a valid assessment is made. *State vs. Farmer*, 94 Texas, 235; 59 S. W. Rep., 541.

4. It is the assessment made annually by the officers of the State under and in accordance with the law which holds a lien upon the land. 1b.

5. The lien for taxes is superior to the widow's allowance. *State vs. Jordan*, 1 T. C. R., 747.

#### ART. 5087. LEASEHOLD INTERESTS IN PUBLIC LANDS; TIMBER ON PUBLIC LANDS. (ACTS OF 1905.)

Property held under a lease for a term of three years or more, or held under a contract for the purchase thereof, belonging to this State, or that is exempt by law from taxation in the hands of the owner thereof, shall be considered for all the purposes of taxation as the property of the person so holding the same, except as otherwise specially provided by law. Timber held by persons or corporations heretofore or hereafter purchased from the State under the various laws for that purpose, shall likewise be subject to assessment for taxes, and the value thereof for taxation shall be ascertained as the value of other property is ascertained. And should the owner of such timber fail or refuse to pay the taxes assessed against it, the same shall be sold for the taxes thereon, as provided in this title for the sale of personal property for taxes, provided the same can be found by the collector, but if the timber can not be found, then the collector shall collect the taxes due as the taxes on other personal property are collected; provided further, that the Commissioner of the General Land Office shall furnish by the 1st of January each year hereafter to the various commissioners courts and the tax assessors of the State of Texas a full and complete list of all timber sold by the State belonging to the school funds, giving the number of acres, price and to whom sold, in the respective counties where the timber so sold is situated. In case of the sale of such timber for taxes as herein provided, the purchaser shall take and hold the same under the same terms and conditions as the original purchaser thereof from the State.

1. County school lands are not subject to taxation while owned by counties, whether the land be leased or not; neither is the leasehold taxable. *Dougherty vs. Thompson*, 71 Texas, 192; 9 S. W. Rep., 99.

2. A lease in which the State reserves the right to sell and thereby terminate the lease at any time is not such title as contemplated in this article. *Trammell vs. Fought*, 74 Texas, 557; 12 S. W. Rep., 317.

3. A lease for term of years of city waterworks is taxable. *State vs. Taylor*, 72 Texas, 297.

4. Where timber has been sold separately and apart from the land, though standing, it is taxable separately and apart from the land and to the owner. This rule applies whether the timber stands on land owned by the State or by an individual. Ruling of Comptroller.

5. Unpatented mineral locations under the mining Act of 1895 (Article 3498d et seq., Revised Statutes), are subject to taxation under this article. The valuation of mineral claims for taxation governed by Subdivision 3, Article 5088, Revised Statutes. Opinion of Attorney General.

#### ART. 5088. VALUATION OF PROPERTY FOR TAXATION. (ACTS OF 1876.)

1. Each separate parcel of real property shall be valued at its true and full value in money, excluding the value of crops growing or ungathered thereon.

2. In determining the true and full value of real and personal property the assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation, nor shall he adopt as a criterion of value the price for which such property would sell at auction or a forced sale, or in the aggregate with all the property in his county; but he shall value each tract or lot by itself, and at such sum and price as he believes the same to be fairly worth in money at the time such assessment is made.

3. In valuing any real property on which there is a coal or other mine, or stone or other quarry, or springs possessing medicinal properties, the same shall be valued at such a price as such property, including a mine or quarry or spring, would probably sell at a fair voluntary sale for cash.

4. Taxable leasehold estates shall be valued at such a price as they would bring at a fair voluntary sale for cash.

5. Personal property of every description shall be valued at its true and full value in money.

6. Money, whether in possession or on deposit, or in the hands of any member of the family or any other person whatsoever, shall be entered in the statement at the full amount thereof.

7. Every credit for a sum certain, payable either in money or property of any kind, shall be valued at the full value of the same so payable. If for a specified article or for a specified number or quantity of property of any kind, it shall be valued at the current price of such property at the place where payable. Annuities or moneys payable at stated periods shall be valued at the price that the person listing the same believes them to be worth in money.

ART. 5088a. UNITED STATES PAPER MONEY TAXABLE.  
(ACTS OF 1895.)

Circulating notes of national banking associations and United States legal tender notes and other notes and certificates of the United States, payable on demand and circulating or intended to circulate as currency, and gold, silver and other coin, shall be hereafter subject to taxation as money on hand or on deposit, under the laws of this State.

ART. 5088b. ASSESSED AS MONEY ON HAND. (Ib.)

The assessor of taxes shall assess the same in the same manner as money on hand or on deposit or other personal property, as provided for in the general assessment laws of this State.



## CHAPTER III.

## OF THE ASSESSMENT OF TAXES—ELECTION AND QUALIFICATION OF THE ASSESSOR.

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## ART. 5089. ELECTION AND TERM OF ASSESSOR. (ACTS OF 1876.)

There shall be elected by the qualified electors of each county within this State, at the same time and under the same law regulating the election of State and county officers, an assessor of taxes, who shall hold his office for two years, and until his successor is elected and qualified.

1. Since neither the Constitution nor statutes of Texas require that county officers must be voters of the county, a citizen of the State is eligible to the office of tax assessor, though not a legal voter of the county where elected, not

having resided there for six months previous to the election. *Stensoff vs. State*, 80 Texas, 428; 15 S. W. Rep., 1100.

ART. 5090. VACANCIES, HOW FILLED. (Ib.)

In case of a vacancy in the office of assessor of taxes, the same shall be filled by the county commissioners court for the unexpired term only, and until the election and qualification of an assessor at the succeeding general election; and the person appointed to fill such vacancy shall qualify in the same manner as is prescribed by law for assessors of taxes, and shall have all the rights and perform all the duties required by law of the assessor elected.

ART. 5091. OATH AND BOND. (Ib.)

Every assessor of taxes, within twenty days after he shall have received notice of his election or appointment, and before entering upon the duties of his office, shall execute a bond, payable to the Governor and his successors in office, in a sum which shall be equal to one-fourth the amount of the State tax of the county, as shown by the last preceding assessment, but not to exceed ten thousand dollars, with at least three good and sufficient sureties, to be approved by the commissioners court of his county, conditioned that he will faithfully discharge all the duties of said office; and shall take and subscribe the oath prescribed by the Constitution, which oath, together with said bond, shall be recorded in the office of the clerk of the county court of said county, and be forwarded by the county judge of the county to the Comptroller, to be deposited in his office.

ART. 5092. PURVIEW OF THE BOND. (Ib.)

Said bond shall be deemed to extend to the faithful performance of the duties of his office as assessor of taxes for and during the full term for which he was elected or appointed, and shall not become void upon the first recovery, but suit may be maintained thereon until the whole amount thereof be recovered.

ART. 5093. NEW BOND. (Ib.)

Assessors of taxes may be required to furnish a new bond and additional security whenever, in the opinion of the commissioners court, it may be advisable; and should any assessor of taxes fail to give a new bond and additional security when required, he shall be suspended from the further discharge of his duties by the commissioners court of his

county, and be removed from office in the mode prescribed by law for the removal of county officers.

#### ART. 5094. BOND FOR COUNTY TAXES. (Ib.)

The assessor of taxes shall give a like bond with like conditions to the county judges of their respective counties and their successors in office, in a sum not less than one-fourth of the amount of the county tax of the county, as shown by the last preceding assessment, but not to exceed five thousand dollars, with at least three good and sufficient sureties, to be approved by the commissioners court of his county; which bond shall be recorded and deposited in the county clerk's office of the county. A new bond and additional security may be required, and the assessor of taxes may be removed from office for a failure to furnish a new bond or additional security in the manner prescribed by law.

#### ART. 5095. MAY APPOINT DEPUTIES. (Ib.)

Each assessor of taxes may appoint one or more deputies to assist him in the assessment of taxes, and may require such bond and security from the person so appointed as he deems necessary for his indemnity; and the assessor of taxes shall in all cases be liable and accountable for the proceedings and misconduct of his deputies.

#### ART. 5096. AUTHORITY OF DEPUTIES. (Ib.)

The deputies appointed in accordance with the provisions of the preceding article shall do and perform all the duties imposed and required by law of assessors of taxes, and all acts of such deputies done in conformity with law shall be as binding and valid as if done by the assessor of taxes in person.

1. The acts of a de facto deputy assessor, in raising the valuation of property listed for taxes, are not rendered invalid because he may have been legally disqualified from acting as deputy by reason of holding another office. *T. & P. R. R. Co. vs. Harrison County*, 54 Texas, 119.

#### ART. 5097. MAY ADMINISTER OATHS. (Ib.)

Assessors of taxes are hereby authorized and empowered to administer all oaths necessary to obtain a full, complete and correct assessment of all taxable property situated in their respective counties.

## ART. 5098. THE OATH. (ACTS OF 1897.)

The assessor of taxes shall also require each person rendering a list of taxable property to him for taxation under the assessment laws to subscribe to the following oath or affirmation, which shall be written or printed at the bottom of each inventory, to wit: "I, ..... (filling the blank with the name of the person subscribing), do solemnly swear (or affirm) that the above inventory rendered by me contains a full, true and complete list of all taxable property owned or held by me in my own name (or for others, as the case may be, naming the person or firm for whom he rendered the list) in this county, subject to taxation in this county, and personal property not in this county subject to taxation in this county by the laws of this State, on the 1st day of January, A. D. 19.. (filling the blank with the year), and that I have true answers made to all questions propounded to me touching the same, so help me God."

1. It is the imperative duty of the assessor, under penalty of a fine, to administer the oath as contained in this article after the property has been rendered according to the other provisions of the law on taxation. *Parker vs. State*, 69 S. W. Rep., 76.

ART. 5099. WHERE AND HOW THE OATH MAY BE MADE.  
(ACTS OF 1876.)

The owner or agent who is required under the laws of this State to render any property for taxation, may render the same in the county where the same is situated by listing the same and making oath thereto, as required in this title, before any officer authorized to administer oaths in this State, or any officer out of this State that is authorized by law to take acknowledgments of instruments for record in this State, and may forward the same to the assessor of the county by mail or otherwise, and the assessor shall enter the said property on his tax rolls. If the assessor is satisfied with the valuation as rendered in said list he shall so enter the same; if he is not satisfied with the valuation he shall refer the same to the board of equalization of the county for their action, and shall immediately notify, by mail or otherwise, the person from whom he received said list that he has referred said valuation to the board of equalization.

1. It is not necessary that the owner should reside in the State to render personal property, situated within the State, liable to taxation. *Hardesty vs. Fleming*, 57 Texas, 395.

2. Where the person who makes oath to the list before some other officer out of the county and forwards the list by mail, the assessor, if dissatisfied, is neither required nor empowered to affix a valuation, but should refer the same to the board of equalization. The rule is the same when the list is sent by an

individual instead of by mail, if such individual is not authorized to represent the taxpayer. I. & G. N. R. R. Co. vs. Smith County, 54 Texas, 13.

#### ART. 5100. PENALTY FOR FAILURE TO ATTEST OATH. (Ib.)

The assessor of taxes, for every failure or neglect to administer the oath or affirmation prescribed in Article 5098 to each person rendering a list of taxable property to him, unless the person refuses to qualify, shall forfeit fifty dollars, to be deducted out of his commissions upon full and satisfactory information furnished the county judge; and for each and every failure or neglect to attest the oath subscribed to as provided in said article, shall forfeit the sum of fifty dollars upon satisfactory information furnished the county judge. The forfeitures imposed by this article shall be deducted from the assessor's commissions on the assessment for county taxes.

#### ART. 5101. FRAUD UPON THE PUBLIC REVENUE. (ACTS OF 1891.)

Any evasion by means of artifice or temporary or fictitious sale, exchange or pretended transfer upon any bank books of gold and silver coin, bank notes or other notes or bonds subject to taxation under the laws of this State for United States non-taxable treasury notes or any notes or bonds not so subject to taxation, and any such pretended sale, exchange or transfer not made in good faith, and by actual exchange and delivery of the funds so sold, exchanged or transferred and made only by entry on bank books, or by any express or implied understanding not to immediately make a bona fide and permanent sale, shall be deemed prima facie to be a fraud upon the public revenue of this State.

#### ART. 5102. TAXPAYERS TO MAKE OATH. (Ib.)

All assessors of taxes in this State shall require all taxpayers, when assessed by them, to make oath as to any such sale, exchange or transfer made by them on the 1st day of January or within sixty days before said 1st day of January of any year for which any such assessment is made, as to the good faith and bona fide business transaction of any such sale, exchange or transfer, as above set forth, if any such should have been made by them, and if it should be disclosed that any such pretended sale, exchange or transfer has been made for the purpose of evading taxation, then and in that event the assessor shall list and render against such person the coin, bank notes or other notes or bonds subject to taxation under the laws of this State; provided, that



if any person shall make a false affidavit as to any of the foregoing facts he shall be deemed guilty of perjury and be punished as is now provided by law.

ART. 5103. WHEN ASSESSMENTS TO BE MADE. (ACTS  
OF 1876.)

Assessors of taxes shall, between the 1st day of January and the 1st day of June of each year, proceed to take a list of taxable property, real and personal, in his county, and assess the value thereof in the manner following, towit: By calling upon the person, or by calling at the office, place of business or the residence of the person and listing the property required by law in his name and requiring the person to make a statement under oath, as prescribed in Article 5098, of such property in the form hereinafter prescribed.

ART. 5104. IRREGULAR ASSESSMENTS VALID. (Ib.)

Should any property be listed or assessed for taxation after the 1st day of June of any year, or should the assessor of taxes or his deputy fail to administer the requisite oath or attest the same in the mode prescribed by law, or should the party rendering property for taxation fail to subscribe to the list, yet the assessment shall, nevertheless, be as valid and binding to all intents and purposes as if made in strict pursuance of law.

1. Failure on the part of taxpayer to place a value upon his property, or to swear to the list, does not render the assessment invalid; provided, the Comptroller accepts the rendition without objection. *Magnolia Cattle & Land Co. vs. Love*, 21 S. W. Rep., 574.

ART. 5105. IF TAXPAYER IS ABSENT, ETC. (Ib.)

If any person, who is required by this title to list property, shall be sick or absent when the assessor calls for a list of his property, the assessor shall leave at the office or usual place of residence or business of such person, a written or printed notice requiring such person to meet him and render a list of his property at such time and place as the assessor of taxes may designate in said notice. The assessor of taxes shall carefully note in a book the date of leaving such notice.

ART. 5106. OR REFUSES TO LIST. (Ib.)

In every case where any person whose duty it is to list any property for taxation has refused or neglected to list the same when called on for that purpose by the assessor of taxes, or has refused to subscribe to

the oath in regard to the truth of his statement of property or any part thereof, when required by the assessor of taxes, the assessor shall note in a book the name of such person who refused to list or to swear; and in every case where any person required to list property for taxation has been absent or unable from sickness to list the same, the assessor of taxes shall note in a book such fact, together with the name of such person.

ART. 5107. DUTY OF ASSESSOR IN SUCH CASES. (Ib.)

In all cases of failure to obtain a statement of real and personal property from any cause, it shall be the duty of the assessor of taxes to ascertain the amount and value of such property and assess the same as he believes to be the true and full value thereof, and such assessment shall be as valid and binding as if such property had been rendered by the proper owner thereof.

ART. 5108. COMMISSIONER OF THE GENERAL LAND OFFICE TO FURNISH ABSTRACTS TO ASSESSORS.  
(ACTS OF 1879.)

The Commissioner of the General Land Office shall furnish to each assessor of taxes in this State a correct abstract of all the surveys of land and number of acres therein in their respective counties, and on the 1st day of January of each year said Commissioner of the General Land Office shall furnish said assessors an additional list of all new valid surveys in his county during the year; provided, that in case the records of the land office do not show the quantity of acres in a survey, the surveyor of the district shall furnish said assessor a certified statement of the number of acres therein.

ART. 5109. BOOKS TO BE FURNISHED ASSESSORS; HOW TO BE FILLED BY ASSESSORS. (Ib.)

The commissioners courts of each county in this State shall procure and furnish the assessor of said county three well-bound books of not less than six hundred and forty pages each, and an index book for same, and such other stationery as may be necessary; said books to be of the best material and make, and shall have printed headings as per following form:

Abstract No. \_\_\_\_\_

Assessor's Abstract for \_\_\_\_\_

Co. \_\_\_\_\_

P A T E N T					C E R T I F I C A T E					
No.	Vol.	To Whom Issued	Date			Acres	No.	Class	Character	To Whom Issued
			Month	Day	Year					

*Rendered for Taxation.*

Year	By Whom Rendered	Acres	Value	Year	By Whom Rendered	Acres	Value

ART. 5110. HOW TO BE FILLED BY ASSESSOR. (1b.)

The blanks to be filled by the assessor with the abstract number, name of party to whom the certificate was issued, the number, class and character of the certificate, the name of the party to whom the patent issued, number of volume of patent, the month, day and year it was issued, and

the number of acres each survey contains; which whole survey shall stand as a debit against the assessor.

### ART. 5111. BLOCKS AND LOTS IN CITIES. (1b.)

Each assessor shall be required to make an abstract of all the blocks or subdivisions of each of the cities or towns or villages of his county, in a book or books of at least four hundred and eighty pages each, to be furnished him by the commissioners court of his county for that purpose, with an index book to the same, which said book or books shall have a blank space for a diagram or plot of each block or subdivision, giving the number of the lots as per form following:

Block No. _____ Assessor's Abstract of City Lots in _____ County, City of _____			
Year	Owner's Name	No. Lot	Value \$
<div style="border: 1px solid black; height: 100px; width: 100%; position: relative;"> <div style="position: absolute; top: 0; right: 0; width: 50%; height: 50%; border-left: 1px solid black; border-top: 1px solid black;"></div> </div>			

And the said assessor shall draw a plot of each block in the blank space left for that purpose, giving the number of each lot. And the whole of said block or subdivision shall be a debit against the assessor.

ART. 5112. DUTIES OF ASSESSOR AS TO SAME. (Ib.)

Each assessor in this State, when he shall have made the assessment of his county for each year, shall on the 1st day of June of each year, or as soon thereafter as practicable, carry from each person's assessment the number of acres and its value on each survey of lands, lots or blocks to that particular survey, lot or block found on the abstract books provided in Articles 5110, 5111 and 5119; and that all the parts of each survey or block placed on said abstract books shall be a credit to the assessor on that particular survey. And said assessor shall deduct the total number of acres rendered on each survey or block from the total number of acres of the whole survey or block as is shown by said abstract, and if any part is left unrendered, then he shall assess the same to the owner or owners thereof, if known, and if unknown, then to "unknown owners," and the value thereof shall be affixed by him, sanctioned by the board of equalization; provided, that the owner or owners of any survey and grant of land may show by a survey, to be made by the county surveyor of the county, that the survey and grant in which they are interested does not contain the full complement of acres, showing how many acres are in fact embraced within the calls of the particular survey and grant.

ART. 5113. TO BE KEPT IN OFFICE. (Ib.)

The assessor's abstracts shall be kept in his office at the county seat of his county, as records of his office, and shall be at all times subject to the inspection of the public. The index book shall show the original grantee, the number of acres, the abstract number, and the volume and page in which each survey is placed.

ART. 5114. LANDS NOT ON ABSTRACT TO BE PLACED THERE. (Ib.)

Should there be any survey of lands, lots or blocks not on the abstract book or books which are by law subject to taxation, the assessor shall enter such lands, lots or blocks on the assessment list as though the same appeared on said abstract books.



## ART. 5115. CERTIFICATE FROM BOARD OF EQUALIZATION. (Ib.)

Each assessor of taxes shall procure from the board of equalization of his county a certificate that all the surveys and parts of surveys of lands in his county, and all the lots and blocks of the cities and towns of his county are rendered for taxation, which certificate shall be forwarded to the Comptroller of this State before he shall issue to said assessor a draft on the tax collector of his county. And the same rule shall apply to the commissioners court before they issue drafts on the county treasurer for his pay for assessing the county taxes.

## ART. 5116. SUBSTITUTE TO BE EMPLOYED IF ASSESSOR FAILS. (Ib.)

The board of equalization or the county commissioners court shall, if the assessor fails to perform the duties required by this chapter within a reasonable time, employ some other competent person to have the requirements of this law carried out, and the compensation therefor shall be deducted from the assessor's pay for that year.

## ART. 5117. UNORGANIZED COUNTIES. (Ib.)

The Comptroller of this State shall be required to have this law carried out in the unorganized counties of this State, where lands are located.

## ART. 5118. MANNER AND FORM OF ASSESSING. (ACTS OF 1895.)

The manner and form for assessing property for taxation shall be substantially as follows, to wit:

1. The name of the owner.
2. Abstract number.
3. From whom and how acquired.
4. The name of the original grantee.
5. The number of acres.
6. The value of the land.
7. The number of the lot or lots.
8. The number of the block.
9. The value of town lots.
10. The name of the city or town.
11. Number of miles of railroad in the county.
12. The value of railroads and appurtenances, including the pro-

portionate amount of rolling stock to the county after the assessment of such rolling stock and its apportionment among the several counties by the Comptroller as hereinafter provided.

13. Number of miles of telegraph in the county.
14. Value of telegraph and appurtenances in the county.
15. Number and amount of land certificates, and value thereof.
16. Number of horses and mules and value thereof.
17. Number of cattle and value thereof.
18. Number of jacks and jennets and value thereof.
19. Number of sheep and value thereof.
20. Number of goats and value thereof.
21. Number of hogs and value thereof.
22. Number of carriages, bicycles or tricycles, buggies or wagons of whatsoever kind and value thereof.
23. Number of sewing machines and knitting machines and the value thereof.
24. Number of clocks and watches and the value thereof.
25. Number of organs, melodeons, pianofortes, and all other musical instruments of whatsoever kind, and value thereof.
26. The value of household and kitchen furniture over and above the amount of two hundred and fifty dollars.
27. Office furniture and the value thereof.
28. The value of gold and silver plate.
29. The value of diamonds and jewelry.
30. Every annuity or royalty, the description and value thereof.
31. Number of steamboats, sailing vessels, wharves, boats, barges, or other water craft, and the value thereof.
32. The value of goods and merchandise of every description which such person is required to list as a merchant in hand on the 1st day of January of each year.
33. The value of material and manufactured articles which such person is required to list as a manufacturer.
34. The value of manufactures, tools, implements and machinery other than boilers and engines, which shall be listed as such.
35. Number of steam engines and boilers and value thereof.
36. The amount of moneys of bank, banker, broker, stock jobber or any other person.
37. The amount of solvent credits of bank, banker, broker, stock jobber or any other person.
38. The amount and value of bonds and stocks (other than United States bonds).

39. The amount and value of shares of capital stock companies and associations not incorporated by the laws of this State.

40. The value of property of companies and corporations other than property hereinbefore enumerated.

41. The value of stock and furniture of saloons, hotels and eating houses.

42. The value of every billiard, pigeon hole, bagatelle, and other similar table, together with the number thereof.

43. Every franchise, the description and value thereof.

44. The value of all other property not enumerated as above.

1. No liability attaches against the owner of personal property for tax thereon when it was not assessed in his name. *Connell vs. State*, 55 S. W. Rep., 980.

2. Description is sufficient when it furnishes the means by which the property can be identified from the description itself, or by use of extrinsic evidence to apply that description to the property. *Eustis vs. City of Henrietta*, 90 Texas, 468; 39 S. W. Rep., 567. See also *Grace vs. City of Bonham*, 2 T. C. R., 698.

3. Where there were two surveys in the same county in the name of the same grantee and for the same number of acres, an assessment against unknown owner by giving the abstract number, name of original grantee and number of acres not sufficient. *State vs. Farmer*, 94 Texas, 232.

4. When the property is rendered by the owner, the same fullness of description is not required as if the assessment was against an unknown owner or upon property not rendered by the owner. *Cooper Grocery Co. vs. City of Waco*, 6 T. C. R., 52.

5. Where the whole of a survey was delinquent, and the whole of it assessed by number and grant, the fact that the number of acres was stated at 640, when it really contained 706, did not render the assessment invalid to any part of the survey. *Kenson vs. Gage*, 9 T. C. R., 725.

#### ART. 5119. ASSESSMENT OF PROPERTY NOT RENDERED. (Ib.)

If the assessor of taxes discovers any real property in his county subject to taxation which has not been listed to him, he shall list and assess such property in the manner following, to wit:

1. The name of the owner; if unknown, say "unknown."
2. Abstract number and number of certificate.
3. Number of the survey.
4. Name of the original grantee.
5. Number of acres.
6. The true and full value thereof.
7. The number of lot or lots.
8. The number of the block.
9. The true and full value thereof.
10. The name of the city or town, and give such other description of the lot or lots or parcels of land as may be necessary to better describe

the same; and such assessment shall be as valid as if rendered by the owner thereof.

1. Assessment made against unknown owner, when the true owner is known, or is occupying the property, is void. *Hollywood vs. Wellhausen*, 4 T. C. R., 967.

2. The lots into which town or city blocks are subdivided are generally regarded as separate and distinct tracts or parcels of land, and each lot should be separately assessed. *State vs. Baker*, 49 Texas, 763.

3. It would be a sufficient description when an entire survey is assessed to give the owner's name, if known, or to state that it is unknown, together with the abstract number, certificate number, survey number, name of original grantee and number of acres; but, when only a portion of a survey is assessed, some further description is necessary in order to identify the particular portion assessed. *Morgan vs. Smith*, 70 Texas, 637; 8 S. W. Rep., 528.

4. The assessor may, after the taxpayer has made a rendition of property for taxes, assess other property not rendered by the owner. *Galveston County vs. Wharf Co.*, 72 Texas, 557.

5. It is only when property has not been rendered that it can be assessed and placed on the unrendered roll, and this must be done by the assessor. The board of equalization can not direct him to do it. *Cook vs. Railway Co.*, 24 S. W. Rep., 544.

6. For the requirements of a valid assessment under this article, see *House vs. Stone*, 64 Texas, 677.

7. When there are two tracts of land in the same county containing the same number of acres and having the same original grantee, the abstract number is not a sufficient description for the purpose of assessment. *State vs. Farmer*, 94 Texas, 232; 59 S. W. Rep., 543.

#### ART. 5120. BOARD OF EQUALIZATION. (ACTS OF 1895.)

The commissioners courts of the several counties of this State shall convene and sit as a board of equalization on the second Monday in June of each year, or as soon thereafter as practicable before the 1st day of July, to receive all the assessment lists or books of the assessors of their counties for inspection, correction, equalization and approval.

1. They shall cause the assessor to bring before them at such meeting all said assessment lists, books, etc., for inspection, and see that every person has rendered his property at a fair market value, and shall have power to send for persons, books and papers, swear and qualify persons, to ascertain the value of such property, and to lower or raise the value on the same.

2. They shall have power to correct errors in assessments.

3. They shall equalize improved lands into three classes—the first class to embrace the better quality of land and improvements; the second class to embrace the second quality of lands and improvements, and the third class to embrace lands of but small or inferior improvements. The unimproved lands shall embrace first, second and third class, and all other property made as nearly uniform as possible.

4. After they have inspected and equalized as near as possible, they shall approve said lists or books and return to assessors for making up

the general rolls, when said board shall meet again and approve the same, if found correct.

5. Whenever said board shall find it their duty to raise the assessment of any person's property, it shall be their duty to order the county clerk to give the person written notice, who rendered the same, that they desire to raise the value of the same. It shall be their duty to cause the county clerk to give ten days' written notice before their meeting by publication in some newspaper, but if none is published in the county, then by posting a written or printed notice in each justice's precinct, one of which must be at the court house door.

6. The assessors of taxes shall furnish to the board of equalization, on the first Monday in June of each year, or as soon thereafter as practicable, a certified list of names of all persons who either refuse to swear or to qualify, or to have signed the oath or affirmation as required by law, together with the assessment of said persons' property made by him through other information; and the board of equalization shall examine, equalize and correct assessments so made by the assessor, and when so revised, equalized and corrected, the same shall be approved.

1. The board of equalization is not required to set forth the classification of each assessment list. *Graham vs. Lasater*, 26 S. W. Rep., 472.

2. It is not necessary to sustain the action of the board of equalization in revising a valuation upon the assessment roll that an order of the board making such change be entered on the minutes. *Duck vs. Peeler*, 74 Texas, 268; 11 S. W. Rep., 1111.

3. The notices required to be given by this article are conditions precedent to the right of the board to raise the assessment. *Ry. Co. vs. Randolph*, 24 Texas, 317.

4. The notice required by this article may be given by mailing a postal card to the taxpayer. *Graham vs. Lasater*, 26 S. W. Rep., 472.

5. The proceedings of the board are not invalid by a continuation of the session into July. *Graham vs. Lasater*, 26 S. W. Rep., 472.

6. The board of equalization has no power to add to the rolls property not previously assessed, nor to take from them property which they embrace. *Galveston County vs. Gas Co.*, 72 Texas, 509; 10 S. W. Rep., 583; *Davis vs. Burnett*, 77 Texas, 3; 13 S. W. Rep., 613; *Galveston County vs. Wharf Co.*, 72 Texas, 557; 10 S. W. Rep., 587.

7. The board can not direct property rendered by the owner for taxation to be listed as unrendered property. *Cook vs. Ry. Co.*, 24 S. W. Rep., 544.

8. The action of the board in raising the valuation of property is final. *Ry. Co. vs. Harrison County*, 54 Texas, 119; *Duck vs. Peeler*, 74 Texas, 268; 11 S. W. Rep., 1111.

9. After final approval of the rolls by the board, it has no further jurisdiction in the matter, and an order reducing the assessment is void for want of authority in the board to make it. *Clawson Lumber Co. vs. Jones*, 49 S. W. Rep., 909.

10. The commissioners court has no power in advance of an assessment by the assessor over the question of the valuation of property for the purpose of taxation. *Opinion of Attorney General.*



ART. 5120a. ASSESSMENT OF REAL PROPERTY FOR  
PREVIOUS YEARS. (ACTS OF 1888.)

If the assessor of taxes shall discover in his county any real property which has not been assessed or rendered for taxation for any year since 1870, he shall list and assess the same for each and every year for which it has not been assessed, in the manner prescribed in the preceding article, and such assessment shall be as valid and binding as though it had been rendered by the owner thereof; but no such real property shall be assessed by the assessor unless he has ascertained by the certificate of the Comptroller of Public Accounts the fact that the records of his office do not show that the property has been rendered or assessed for the year in which he assesses it.

ART. 5121. ASSESSMENT OF BACK TAXES ON PERSONAL  
PROPERTY. (ACTS OF 1887.)

If the assessor of taxes shall discover in his county any property, or, outside of his county but belonging to a resident of the county, any personal property which has not been assessed or rendered for taxation every year for two years past, he shall list and assess the same for each and every year thus omitted which it has belonged to said resident, in the manner prescribed for assessing other property, and such assessment shall be as valid and binding as though it had been rendered by the owner thereof.

1. Under this article no liability attaches against the owner of personal property for a tax thereon, where it was not assessed in his name. *Connell vs. State*, 55 S. W. Rep., 980.

2. This article is not effective as to assessing stock outside of the county in which it is situated, since Article 5070 has been added to the statutes providing for listing stock in the county in which it is situated. *Cammack vs. Matador Land & Cattle Co.*, 70 S. W. Rep., 455.

3. The tax assessor has no power to list and assess unassessed personal property beyond two years back of the current year. *Opinion of Attorney General*.

ART. 5121a. UNLISTED PROPERTY TO BE ASSESSED BY  
COLLECTOR; SUPPLEMENTAL ROLL. (ACTS OF 1895.)

Collectors of taxes of counties, cities and towns, when any taxpayer applies to them for the purpose of ascertaining the amount of his taxes, and the collector finds that his name or his property does not appear on the tax roll, shall, and it is hereby made their duty to, assess said taxpayer then and there, collect the taxes and enter the same upon a supplemental tax roll to be made by him. He shall make out, on forms to be furnished by the Comptroller, three copies of such supplemental

roll, one copy to be delivered to the Comptroller of Public Accounts, one to be delivered to the county clerk, and one to be filed in the collector's office. Said supplemental tax roll shall be made out and delivered to the county commissioners court with all other papers pertaining to the final settlement of said tax collector, and the same shall be examined and approved by the county commissioners court, in like manner as upon the tax roll of the tax assessor. The collectors of taxes are hereby authorized and empowered to administer all oaths necessary to obtain a full and correct assessment of all taxable property assessed by them under this act. The oath shall be the same as is administered by tax assessors under existing law. The collector of taxes shall receive the following compensation for his services on all assessments made by him under this act, to-wit: For assessing the State and county taxes, 4 cents for each one hundred dollars of property so assessed, and for assessing the poll tax, 5 cents for each poll, which fee shall be paid in the same way as the tax assessor's fee in Article 5133.

1. Under this article it is immaterial whether the person himself offers to pay the tax or whether some agent makes the offer for him. Hence, if A calls on the collector to pay B's taxes, and it is ascertained that B has not been assessed, the collector is authorized and required to assess the taxes due by B, and thereafter the payment of the tax may be enforced as in any other case. Opinion of Attorney General.

2. The collector is not entitled to any commissions for making assessments under this article until the taxes on the assessments are collected. Ruling of Comptroller.

3. On January 30, 1902, upon a statement furnished him by the State Treasurer, the tax collector of Travis county assessed for taxation for the years 1898, 1899, 1900 and 1901 certain securities deposited by a foreign guaranty and surety company with the State Treasurer, and entered the assessment on his supplemental roll as provided in this article. The assessment held to have been properly made. *State vs. Fidelity & Deposit Co.*, 80 S. W. Rep., 544.

#### ART. 5122. ASSESSOR TO FOLLOW INSTRUCTIONS. (ACTS OF 1876.)

The assessors of taxes, in the execution of their duties, shall use the forms and follow the instructions which shall from time to time be prescribed by the Comptroller of Public Accounts, and furnished to them by the county judge in pursuance of law.

1. The instructions of the Comptroller to assessors "not to tax railroad bridges separately as bridges, but to include all bed as railroad, whether built on the ground or on bridges," is binding on the assessor of taxes, and the rendition by the taxpayer of property for taxation in accordance with the instructions was a compliance with the law. *Cook vs. Ry. Co.*, 24 S. W. Rep., 544. See also *Court vs. O'Connor*, 65 Texas, 334.

## ART. 5123. EQUALIZATION OF ASSESSMENTS. (Ib.)

In case the person listing property makes oath, and the assessing officer is satisfied that it is correctly valued, he shall list the same accordingly; but if the assessor is satisfied that the value is too low he shall list the same at such value as he, as a sworn officer, deems just; and if the person listing makes oath that the assessment is excessive, the value shall be decided by the board of equalization, whose valuation shall be final.

## ART. 5124. BOARDS MAY EQUALIZE WITHOUT COMPLAINT.

The boards of equalization shall have power, without complaint from any one, to supervise the assessments of their respective counties, and if satisfied that the valuation of any property is not just and fair, to increase or diminish the same, and to affix a proper valuation thereto; and their action in such cases shall be final and not subject to revision by said board or any other tribunal thereafter.

1. The action of the board is not final if the assessment is unreasonably excessive and fraudulently made. *Johnson vs. Holland*, 43 S. W. Rep., 71.

## ART. 5125. ASSESSOR TO FURNISH LIST OF DELINQUENTS. (Ib.)

The assessor of taxes shall furnish the board of equalization on the first Monday in June of each year, or as soon thereafter as practicable, a certified list of names of all persons who either refused to swear or to qualify, or to sign the oath or affirmation, as prescribed in this title; also a list of the names of those persons who refused to render a list of taxable property as required by this title. And should any person so failing or refusing to take the oath prescribed, or to render a list of their property, or to subscribe to the oath, as required by the provisions of this title, fail to give satisfactory reasons for such failure or refusal to the board of equalization within one month from the date of the filing of said list by the assessor, as required by this article, the board of equalization shall return a list of all persons who have failed to give satisfactory reasons for such failure or refusal to render, qualify or subscribe to the oath or affirmation, as the case may be, to the assessor of taxes, who shall present the said list to the grand jury of his county next impaneled after the board of equalization has furnished him with the list above required.

## ART. 5126. AND SUBMIT LIST TO BOARD OF EQUALIZATION. (Ib.)

The assessor of taxes shall submit all the lists of property rendered to him prior to the first Monday in June to the board of equalization of his county on the first Monday in June, or as soon thereafter as practicable, for their inspection, approval, correction or equalization; and after the board of equalization shall have returned the corrected and approved lists of taxable property, the assessor of taxes shall proceed to assess all the unrendered property of his county as provided for in this title, and shall proceed to make out and prepare his rolls or books of all the real and personal property listed to him, in the form and manner prescribed by the Comptroller of the State.

1. The board has no power to strike from the rolls property placed thereon by the assessor. *Galveston County vs. Gas Co.*, 72 Texas, 509; 10 S. W. Rep., 583; *Galveston County vs. Wharf Co.*, 72 Texas, 557; 10 S. W. Rep., 587.

2. The remedy against the illegal act of an assessor in raising an assessment is by application to the board of equalization. *Duck vs. Peeler*, 74 Texas, 268; 11 S. W. Rep., 1111.

3. The board has power to revise and increase the valuation of any property upon the assessment roll. Ib.

4. Objection to payment of tax can not be made on the ground that there is no board of appeals to pass on objections to assessments. *Scollard vs. City of Dallas*, 42 S. W. Rep., 640.

5. The county commissioners court constitute a board of equalization for the State and county, and not for the city. Ib.

## ART. 5127. SHALL MAKE ROLLS OUT IN TRIPLICATE. (Ib.)

As soon as the board of equalization shall have examined, corrected and approved the assessor's list, the assessor of taxes shall prepare and make out a roll or book, as may be required by the Comptroller, from the list so corrected and approved, and three exact copies of the same, the original to be furnished to the collector of taxes, the second to the Comptroller of Public Accounts, and the third to be filed in the county clerk's office for the inspection of the public. He shall also prepare a roll or book, and two exact copies thereof, to be distributed, the first to the collector of taxes, the second to the Comptroller, the third to be filed in the county clerk's office, of all the real and personal property which has not been listed to him.

## ART. 5128. ALSO ROLLS OF UNREDEEMED PROPERTY. (Ib.)

The assessor of taxes shall, after his list of unrendered real and personal property shall have been examined, corrected and approved by the board of equalization as provided by law, prepare and make out his rolls

or books of all unrendered real and personal property listed by him in the manner and form prescribed by the Comptroller of the State.

ART. 5129. AND ADD UP COLUMNS. (Ib.)

The assessor of taxes shall add up and note the aggregate of each column on his roll or book, and he shall also make in each book or roll, under proper headings, a tabular statement showing the footings of the several columns upon each page, and he shall add up and set down under the respective headings the total of the several columns.

ART. 5130. RETURN AND OATH. (ACTS OF 1897.)

The assessor of taxes shall, on or before the 1st day of August of each year for which the assessment is made, return his rolls or assessment books of the taxable property rendered to him or listed by him for that year, after they have been made in accordance with the provisions of this title, to the county board of equalization, verified by his affidavit, substantially on the following form:

THE STATE OF TEXAS, }  
 .....County. } I, ....., assessor of  
 .....county, do solemnly swear that the rolls (or books) to which this is attached contain a correct and full list of the real and personal property subject to taxation in ..... (fill the blank with the name of the county) county, so far as I have been able to ascertain the same; that I have sworn every person listing property to me in the county, or caused the same to be done in manner and form as provided by law, and that the assessed value set down in the proper column opposite the several kinds and descriptions of property is the true and correct valuation thereof as ascertained by law, and the footings of the several columns in said books and the tabular statement returned is correct, as I verily believe.

1. Parol evidence is not admissible to prove the indorsement on the assessor's tax roll required by this article. *Clayton vs. Rehm*, 67 Texas, 52; 2 S. W. Rep., 45.

2. Supplemental roll for a given year is not admissible when it lacks the affidavit of the assessor required by this article. *Taber vs. State*, 85 S. W. Rep., 837.

ART. 5131. ALL LISTS, ETC., FILED IN COUNTY CLERK'S OFFICE. (ACTS OF 1876.)

The assessor of taxes shall at the same time deliver to the board of equalization all the lists, statements of all property which shall have been made out or received by him, and arranged in alphabetical order,



together with the roll withdrawn to aid him in the past assessment. The lists and statements shall be filed in the county clerk's office, and remain there for the inspection of the public.

1. The record of the rendition of each taxpayer is required to be kept in the county clerk's office, and is admissible in evidence without the three days' notice required in the admission of deeds. *Frazier vs. State*, 81 S. W. Rep., 533.

#### ART. 5132. ROLLS, HOW DISTRIBUTED. (Ib.)

After the board of equalization shall have examined the rolls or assessment books and made all corrections, if any be necessary, the assessor shall send one copy of each to the Comptroller of Public Accounts, one copy of each to the collector of his county, and he shall file the other copies in the county clerk's office until the next assessment, when the assessor shall have the right to withdraw them and use as provided in this title.

1. Assessment roll does not fix any liability on the taxpayer or his property until the list has been approved by the board of equalization. *Chisholm vs. Adams*, 71 Texas, 678; 10 S. W. Rep., 336.

#### ART. 5133. COMPENSATION. (ACTS OF 1897.)

Each assessor of taxes shall receive the following compensation for his services, which shall be estimated upon the total values of the property assessed, as follows: For assessing the State and county tax, on all sums for the first \$2,000,000 or less, 5 cents for each \$100 of property assessed; and on all sums in excess of \$2,000,000 and less than \$5,000,000,  $2\frac{1}{4}$  cents on each \$100; and on all sums in excess of \$5,000,000, 1  $\frac{7}{10}$  cents on each \$100; one-half of the above fees shall be paid by the State and one-half by the county; and for assessing the poll tax, 5 cents for each poll, which shall be paid by the State. The commissioners court may allow to the assessor of taxes such sums of money, to be paid monthly from the county treasury, as may be necessary to pay for clerical work, taking assessments and making out the tax rolls of the county, such sums so allowed to be deducted from the amount allowed to the assessor as compensation upon the completion of said tax rolls; provided, the amount allowed the assessor by the commissioners court shall not exceed the compensation that may be due by the county to him for assessing.

1. Assessors are not mentioned in Section 7 of Chapter 5, Acts of the First Called Session of the Twenty-fifth Legislature, and, therefore, their fees are not affected by the number of votes cast in the county. *Ruling of Comptroller*.

## ART. 5134. HOW PAID BY THE STATE. (ACTS OF 1876.)

The Comptroller, on receipt of the rolls, shall give the assessor an order on the collector of his county for the amount due him by the State for assessing the State taxes, to be paid out of the first money collected for that year.

## ART. 5135. BY THE COUNTY. (Ib.)

The commissioners court shall issue an order on the county treasurer of their county, to the assessor, for the amount due him for assessing the county tax of their county, to be paid out of the first money received from the collector on the rolls of that year.

1. The order of the commissioners court approving the assessment rolls is tantamount to an adjudication of the amount the assessor is entitled to receive as compensation, and can not be attacked by him in a suit against the county for his fees, nor inquired into. *Dimmit County vs. Cavender*, 65 S. W. Rep., 882.

## ART. 5136. PENALTIES FOR NEGLECT OF DUTY. (Ib.)

Should any assessor of taxes fail or neglect to make out and return his rolls or books to the commissioners court in the time and manner provided for in this chapter, it shall be competent for the commissioners court to deduct from his compensation such amount as they may deem proper and right for such neglect or failure; and should his rolls or books, when presented for approval to the commissioners court, prove to be imperfect or erroneous, the court shall have the same corrected or perfected, either by the assessor or some other person than the assessor of taxes. Such person so employed by the commissioners court shall be entitled to such part of the commissions to which such assessor is entitled as the court may allow; and said court shall so certify to the Comptroller, who shall pay such person in the same manner as the assessor of taxes is paid, and the amount so paid shall be deducted by the Comptroller from the commissions of the assessor of taxes, whose duty it was to have performed such work.

## ART. 5137. LANDS OF NON-RESIDENTS IN UNORGANIZED COUNTIES.

Lands lying in and owned by non-residents of unorganized counties, and lands lying in the territory not laid off into counties, shall be assessed by the Comptroller of Public Accounts in accordance with such regulations as he may adopt and establish for that purpose.

1. The acceptance by the Comptroller of a rendition of land for taxation by a non-resident, in an unorganized county, does not prevent the county, upon its subsequent organization, from collecting the taxes where same have not been actually paid to the Comptroller and the organization of the county effected prior to June 1st of that year. *Cattle & Land Co. vs. Love*, 21 S. W. Rep., 574.

## PROPERTY IN UNORGANIZED COUNTIES.

### ART. 5138. LANDS IN UNORGANIZED COUNTIES. (ACTS OF 1879.)

All lands and other property situated in the unorganized counties of this State, owned by residents of such unorganized counties, shall be assessed by the assessor of the organized county to which such unorganized county is attached for judicial purposes, and the taxes collected by the collector of such organized county; and the same remedies for the enforcement of the assessment and collection of such taxes shall apply as the law directs for the assessment and collection of the taxes on property situated in organized counties of this State.

1. No special legislation is necessary to determine who shall assess taxes in unorganized counties. Constitution, Article 8, Section 12; *Lee vs. Flemming*, 1 App. C., 1128.

2. Personal property situated in an unorganized county is taxable in the county to which it is attached for judicial purposes. *Cattle Co. vs. Faught*, 69 Texas, 402; 5 S. W. Rep., 494.

3. If the county is organized after the taxes are assessed and before they are collected the collector of the newly organized county may collect them. *Lee vs. Flemming*, 1 App. C., 1128.

4. See the case of *Magnolia Land & Cattle Company vs. Love*, 21 S. W. Rep., 574.

### ART. 5139. DUTIES OF COMPTROLLER IN REGARD THERETO. (ACTS OF 1897.)

The Comptroller of the State is authorized, empowered and required to assess and collect the State and county taxes on all lands in this State which are situated in unorganized counties thereof and owned by non-residents thereof, in the manner hereinafter provided.

### ART. 5140. SAME. (ACTS OF 1879.)

The Comptroller may at any time prior to the return of the assessment rolls to his office of the organized county to which such unorganized county or counties are attached for judicial purposes, receive the assessment of and collect the taxes on any lands situated in such unorganized county or counties which are owned by non-residents thereof.

## ART. 5141. SAME. (Ib.)

As soon as the tax rolls of the organized county to which unorganized counties are attached for judicial purposes shall have been received by the Comptroller, he shall, by comparing the lands rendered to the assessor of the organized county by the residents of such unorganized county or counties with those previously rendered to him by non-residents, make out a list of all unrendered lands situated in such unorganized county, and place such value upon the lands thus found to be unrendered as he, as a sworn officer, may deem just and fair; provided, nothing in this law shall be so construed as to prevent the Comptroller from receiving the assessment and taxes due at any time prior to the completion of the unrendered list of such unorganized county.

## ART. 5142. SAME. (Ib.)

After the completion of the unrendered list provided for in this chapter, the owner or owners must pay according to the value and assessment made thereon by the Comptroller.

## ART. 5143. MAY APPEAL FROM COMPTROLLER'S ASSESSMENT. (Ib.)

Assessment of lands rendered to the Comptroller under the provisions of this chapter shall be made by the party rendering the same under oath as to their value; but if the Comptroller thinks the valuation too low he shall object, and if the Comptroller and the party rendering the land can not agree, then the Comptroller shall assess the same at such value as he as a sworn officer may think it is worth; and if the party rendering feels that the assessment is too high he may appeal to the board of equalization, which for such purposes shall consist of the Governor, Attorney General and the Secretary of State, and their decision shall be final.

## ART. 5144. MAY LEVY UPON AND SELL, WHEN. (Ib.)

Three months after the completion of the unrendered list of each unorganized county, respectively, the Comptroller shall proceed to levy upon and advertise all lands in such counties upon which the taxes are due and unpaid, giving notice of the amount due upon each separate tract of land, and giving such description of the land upon which taxes are due and unpaid as he may be in possession of: such notice to be given by publication in some weekly newspaper published in the State for four consecutive weeks; said notice to state that on a certain day therein

named the Comptroller will proceed to sell the land therein described, or so much thereof as may be necessary to pay the State and county taxes due, and the cost of advertising the same.

ART. 5145. SALE. (Ib.)

The sale shall commence on the day named in said notice, and may continue from day to day (Sundays and legal holidays excepted) until completed; such sale shall be had in front of the Comptroller's office, in the city of Austin, between the hours of 8 o'clock a. m. and 4 o'clock p. m. of each day.

ART. 5146. MAY BE BOUGHT BY STATE, WHEN. (Ib.)

Should there be no purchaser of said lands, then the Comptroller shall bid the same in to the State for the taxes due thereon and the costs of sale, and make a deed to the State to the same, including in one deed all lands bid in for the State or any one else.

ART. 5147. REDEMPTION. (Ib.)

Should the lands bid in by the Comptroller for the State not be redeemed by the owner thereof or his agent within two years, by the party redeeming the same paying double the amount for which the said land was sold, then the said lands thus sold and unredeemed shall become vacant and revert to and become a part of the public free school fund, to be sold and disposed of as other lands belonging to the public free school fund are to be sold and disposed of by law.

ART. 5148. TAX DEED. (Ib.)

The Comptroller shall give to the purchaser of any lands the sale of which is provided for in this chapter a deed to the same, giving in such deed such description of the land as may be necessary to identify the same, or such description as he may be in possession of.

ART. 5149. LIST OF PURCHASERS TO BE KEPT IN OFFICE.

The Comptroller shall keep a list of the purchaser or purchasers of all such lands in his office, showing the name and postoffice of the purchaser or purchasers, together with the amount and description of the land sold and the amount for which it was sold, and the date of sale.



## ART. 5150. DEED SHALL VEST GOOD TITLE, WHEN. (Ib.)

The deed given to the purchaser or purchasers by the Comptroller under the provisions of this chapter shall vest a good and sufficient fee simple title in the purchaser or purchasers, subject to be impeached only for actual fraud; provided, the former owner or owners thereof do not redeem the same within two years from the date of the deed, either by paying the purchaser or purchasers double the amount for which said land was sold, or by making a tender of the same to him or his agent, or by depositing with the Comptroller before the expiration of the two years double the amount for which such land was sold, to be paid by the Comptroller, when called upon, to the purchaser or purchasers thereof.

## ART. 5151. COUNTY TAXES TO BE PAID, WHEN. (Ib.)

All county taxes collected under the provisions of Article 5147 shall be paid into the county treasury of the organized county to which the unorganized county is attached for judicial purposes.

## ART. 5152. COMPTROLLER TO KEEP TAXES OF UNORGANIZED COUNTIES. (ACTS OF 1897.)

All county taxes, other than taxes to pay pro rata of indebtedness to parent county, due unorganized counties, collected by the Comptroller, shall be kept by him to the credit of such unorganized county until the total sum to the credit of the county shall reach the sum of \$5000. Then he shall, upon the demand of the treasurer of the former unorganized county, when the same shall have organized, pay said sum, or whatever amount is held to the credit of said county, over to said treasurer. And all county taxes collected by the Comptroller after the amount to the credit of such unorganized county shall reach the amount of \$5000, shall be paid into the county treasury of the organized county to which the unorganized county is attached for judicial purposes.

## ART. 5152a. SAME SUBJECT. (Ib.)

Where the amount to the credit of any unorganized county now exceeds \$5000, the Comptroller shall keep said sum to be paid to the treasurer of such unorganized county when the same shall organize; and all county taxes, other than taxes collected to pay pro rata of indebtedness to parent county, hereafter collected by the Comptroller in such counties, shall be paid into the county treasury of the organized county to which such county is attached for judicial purposes.

## ART. 5153. SPECIAL DEPOSIT TO BE MADE BY COMPTROLLER.

All money received by the Comptroller on deposit for the redemption of land sold and bought by individuals shall be by him deposited in the State treasury as a special deposit, subject to the order of the party to whom the conditional deed to such land was given. So also shall all county taxes collected by the Comptroller under the provisions of this law be deposited in the State treasury as a special fund, subject to the order of the Comptroller, to be paid to the county treasurers as provided in this chapter.

## CHAPTER IV.

## OF THE COLLECTION OF TAXES—ELECTION AND QUALIFICATION OF THE COLLECTOR.

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## ART. 5154. ELECTION AND TERM OF COLLECTOR. (ACTS OF 1876.)

In each county having ten thousand inhabitants, to be determined by the last preceding census of the United States, there shall be elected by the qualified voters, at the same time and under the same law regulating the election of State and county officers, a collector of taxes, who shall hold his office for two years and until his successor is elected and qualified.

## ART. 5155. VACANCIES, HOW FILLED. (Ib.)

Should the office of collector of taxes from any cause become vacant before the expiration of said term, it shall be the duty of the commissioners court in the county in which such vacancy shall occur, to ap-

point a collector of taxes, who shall be qualified in the same manner and subject to like bonds as the collector of taxes elected, and the collector of taxes so appointed shall hold his office for and during the unexpired term of his predecessor and until his successor shall have been qualified; and the collector of taxes so appointed shall have all the rights and perform all the duties required by law of the collector of taxes elected.

ART. 5156. SHERIFF A COLLECTOR, WHEN. (Ib.)

In each county having less than ten thousand inhabitants the sheriff of such county shall be the collector of taxes, and shall have and exercise all the rights, powers and privileges, be subject to all the requirements and restrictions, and perform all the duties imposed by law upon collectors; and he shall also give the same bonds required of a collector of taxes elected.

1. In determining whether a sheriff is also ex-officio collector of taxes, the list of the enumerator taking the last census will govern, if it is duly certified as such and filed in the office of the county clerk. *Nelson vs. Edwards*, 55 Texas, 389.

2. In a suit by a county against a sheriff as ex-officio collector of taxes to recover taxes collected by him and not paid over, reports of taxes collected, endorsed by his deputy in his name as sheriff and collector, are admissible though not sworn to. *Webb County vs. Gonzales*, 69 Texas, 455; 6 S. W. Rep., 781.

3. In a suit against a tax collector, a county ledger is not admissible in evidence against him. *Webb County vs. Gonzales*, 69 Texas, 455; 6 S. W. Rep., 781.

ART. 5157. BOND AND OATH. (Ib.)

Every collector of taxes, within twenty days after he shall have received notice of his election or appointment, and before entering upon the duties of his office, shall give a bond based upon unincumbered real estate of the sureties subject to execution, payable to the Governor and his successors in office, in a sum which shall be equal to the whole amount of the State tax of the county as shown by the last preceding assessment, with at least three good and sufficient sureties, to be approved by the commissioners court of his county, which shall be further subject to the approval of the Comptroller, and shall take and subscribe the oath prescribed by the Constitution, which, together with said bonds, shall be recorded in the office of the clerk of the county court of said county and be forwarded by the county judge of the county to the Comptroller to be deposited in his office. Said bond shall be conditioned for the faithful performance of the duties of his office as collector of taxes for and during the full term for which he was elected or appointed, and shall not become void upon the first recovery, but suit may be maintained thereon until the whole amount thereof be recovered.

1. Upon an actual approval of a tax collector's bond by the Comptroller, it is not necessary to its validity that the approval be endorsed upon it. *Oglesby vs. State*, 73 Texas, 658; 11 S. W. Rep., 873.

2. A bond which contains a provision that the collector shall perform his duties as such generally may be enforced against him under a law afterwards enacted. *Swan vs. State*, 48 Texas, 120.

3. As to the liability of a tax collector and his sureties for failure to collect taxes on county bonds, etc., see Article 900 of the Revised Statutes of 1895.

4. Taxes collected and paid into the treasury can not lawfully be applied to the discharge of a pre-existing debt of the tax collector on a former account. The tax collector can not authorize nor can the Comptroller apply it to the injury of the sureties of the collector. *State vs. Middleton*, 57 Texas, 185.

5. The liability of sureties on a tax collector's bond which by its terms binds the collector and sureties jointly and severally, is not limited by writing opposite the signature of each surety a specific amount and causing the certificate of acknowledgment to recite that they had each rendered himself liable for such specific amount. *Cordray vs. State*, 55 Texas, 140.

6. The relation of a tax collector toward the State is not that of a mere bailee for hire. He is bound to account for and pay over the taxes collected, or his sureties must pay for him. *Boggs vs. State*, 46 Texas, 10.

7. The tax collector must give bond for faithful performance of his duties for the collection of State taxes, and another like bond for collection of county taxes. *T. L. & C. Co. vs. Hemphill County*, 61 S. W. Rep., 335.

8. The bond of a tax collector can not be approved when any surety on same is not a resident of the county in which the tax collector has been elected. Penal Code, Article 271.

9. As to how sureties on an official bond may be relieved from liability thereon, see Article 356 et seq. of the Revised Statutes of 1895. The release of one surety will release all other sureties; so, where one surety is released, a new bond must be required. Opinion of Attorney General.

#### ART. 5158. NEW BOND. (Ib.)

The collector of taxes may be required to furnish a new bond or additional security whenever, in the opinion of the commissioners court or Comptroller of Public Accounts, it may be advisable. Should any collector of taxes fail to give a new bond and additional security when required, he shall be suspended from office by the commissioners court of his county, and immediately thereafter be removed from office in the mode prescribed by law.

1. An officer required to give a new bond is entitled to a reasonable time therefor. *Poe vs. State*, 72 Texas, 625; 10 S. W. Rep., 737.

2. Sureties on a collector's bond are not released from liability until the new bond is approved by the Comptroller, notwithstanding its approval by the commissioners court. *State vs. Wells*, 61 Texas, 562; *Finch vs. State*, 71 Texas, 52; 9 S. W. Rep., 85.

#### ART. 5159. BOND FOR COUNTY TAXES. (Ib.)

Collectors of taxes shall give a like bond, with like conditions, to the county judges of their respective counties and their successors in office, in a sum not less than the whole amount of the county tax of the county, as shown by the last preceding assessment, with at least three good and sufficient sureties, to be approved by the commissioners court of his



county, which bond shall be recorded and deposited in the office of the clerk of the county court. A new bond and additional security may be required, and for a failure to give such new bond or additional security the collector of taxes may be removed from office in the manner prescribed by law.

1. A tax collector's bond, in so far as it relates to county taxes, should be made payable to the county judge. *King vs. Ireland*, 68 Texas, 682; 5 S. W. Rep., 499.

2. A county tax collector has no authority to receive taxes before the assessment rolls have been delivered to him, though they have been approved, and having done so, and failed to turn the taxes over to the county, the taxpayer is still liable therefor. The public must take notice of the authority under which public officers act. *Orange County vs. T. & N. O. Ry. Co.*, 80 S. W. Rep., 670.

3. If the necessity arises, additional security may be required, and the tax collector can not further discharge his official duties until further security is furnished. *Orange County vs. T. & N. O. Ry. Co.*, 80 S. W. Rep., 670.

#### ART. 5160. ALL BONDS TO BE FIRST APPROVED. (Ib.)

No collector of taxes shall enter upon the discharge of the duties of the office until all the bonds required of him by law for the collection of any taxes, State, county or special, shall have been given and approved.

#### ART. 5161. MAY APPOINT DEPUTIES. (Ib.)

Each collector of taxes may appoint one or more deputies to assist him in the collection of taxes, and may take such bond and security from the person so appointed as he deems necessary for his indemnity, and the collectors, in all cases, shall be liable and accountable for his proceedings and misconduct in office.

#### ART. 5162. ROLLS TO BE A WARRANT. (Ib.)

When the collector of taxes of any county shall have received the assessment rolls or books of the county, he shall receipt to the commissioners court for the same, and said rolls or books shall be full and sufficient authority for the county collector of taxes to receive and collect the taxes therein levied.

1. After the collection, the collector is required under penalties to promptly report and remit all taxes collected by him to the State and county treasurers, without excepting cases in which suits, however promptly filed, may be instituted for the recovery thereof. *T. L. & C. Co. vs. Hemphill*, 61 S. W. Rep., 334.

#### ART. 5163. COLLECTOR FOR ALL TAXES. (Ib.)

The collector of taxes shall be the receiver and collector of all taxes assessed upon the tax list in his county, whether assessed for the State or county, school, poorhouse or other purpose, and he shall proceed to

collect the same according to law, and place the same when collected to the proper fund, and pay the same over to the proper authorities, as hereinafter provided.

1. A tax collector and his deputy collecting taxes in a district in which he has no authority to act is liable in actual damages as a trespasser. *Wright vs. Jones*, 38 S. W. Rep., 249.

#### ART. 5164. COLLECTIONS, WHEN TO BEGIN. (Ib.)

The collector of taxes of each county shall begin the collection of taxes annually on the 1st day of October, or so soon thereafter as he may be able to obtain the proper assessment rolls, books or data upon which to proceed with the business; and he shall post up notices—not less than three—at public places in each voting or magistrate's precinct in his county, at least twenty days previous to the day said taxpayers are required to meet him for the purpose of paying their taxes, stating in said notice the times and places the same are required to be paid; and it shall be the duty of said collector, or his deputy, to attend at such times and places for the purposes aforesaid, and shall remain at each place at least two days; and if the collector shall, from any cause, fail to meet the taxpayers at the time and place specified in the first notice, he shall, in like manner, give a second notice.

1. A tax receipt is evidence of payment of taxes, and the fact that the person signing it acted as collector is *prima facie* evidence of his authority. *Dean vs. Wills*, 21 Texas, 642.

2. Payment of taxes may be proven by other evidence than the tax receipt. It may be proven by parol. *McDonough vs. Jefferson County*, 79 Texas, 535; 15 S. W. Rep., 490; *Jack vs. Dillon*, 25 S. W. Rep., 645.

3. It is contemplated by law that taxes are due and payable on October 1st for that year. The fact that seizure of property for taxes can not be made prior to January 1st indicates a mere indulgence of the taxpayer, and not that the taxes are not sooner due and payable. *Wall vs. Club Land & Cattle Co.*, 88 S. W. Rep., 536.

#### ART. 5165. SHALL KEEP OFFICE AT COUNTY SEAT. (ACTS OF 1887.)

The collector of taxes shall keep his office at the county seat of his county, and it shall be the duty of every person who has failed to attend and to pay his taxes at the times and places in his precinct named by the collector, as provided in the preceding article, to call at the office of the collector and pay the same before the last day of December of the same year for which the assessment is made.

1. Under Section 10, Chapter 103, Acts of the Twenty-fifth Legislature, post Article 5232j, the taxpayer is allowed to pay his taxes without penalty until the 31st day of January next succeeding the return of the assessment rolls of the county to the Comptroller.

## ART. 5166. TAX RECEIPTS AND ITS REQUISITES. (ACTS OF 1876.)

The collector of taxes or his deputy, whenever any tax is paid, shall give to the person paying the same a receipt therefor, specifying the amount of State ad valorem tax, amount of State poll tax, the amount of county ad valorem tax, the amount of county poll tax, and the year or years for which such tax was levied; said receipt shall also show the number of acres of land in each separate tract, number, abstract and name of original grantee; the said receipt shall have a duplicate stub showing the name of the person, the date, the amount of each separate tax and the date of payment. The collector of taxes shall provide himself with a seal, on which shall be inscribed a star with five points, surrounded by the words "Collector of taxes, ——— county" (the blank to be filled with the name of the county), and shall impress said seal to each receipt given by him for taxes collected on real estate; and said receipt having the seal attached shall be admissible to record in the county in which the property is situated in same manner as deeds duly authenticated, and when so recorded shall be full and complete notice to all persons of the payment of said tax.

## ART. 5167. MONTHLY REPORTS; REQUISITES OF; DUTIES OF COLLECTOR. (ACTS OF 1893.)

1. At the end of each month the collector of taxes shall, on forms to be furnished by the Comptroller of Public Accounts, make an itemized report under oath to the Comptroller, showing, each and every item of ad valorem, poll and occupation taxes collected by him during said month, accompanied by a summarized statement showing full disposition of all State taxes collected.

2. He shall present such report, together with the tax receipt stubs, to the county clerk, who shall, within two days, compare said report with said stubs, and if same agree in every particular as regards names, dates, and amounts, he (the clerk) shall certify to its correctness, for which examination and certificate he shall be paid by the commissioners court 25 cents for each certificate and 25 cents for each two hundred taxpayers on said report.

3. The collector of taxes shall then immediately forward his reports so certified to the Comptroller, and shall pay over to the State Treasurer all moneys collected by him for the State during said month, excepting such amounts as he is allowed by law to pay in his county, reserving only his commissions on the total amount collected; and to enable him to do so he may, at his own risk, send the same to the State Treasurer

at the least cost to the State, on which he shall be allowed credit by the Comptroller upon filing receipts showing actual amount of exchange paid; provided, that the State Treasurer shall accept no payment other than money orders or direct cash payments, which may be made through express companies, banks, or any other source. The State Treasurer whenever he may receive a remittance from a collector of taxes shall promptly pay the money so remitted to the State treasury, on the deposit warrant of the Comptroller, and the money when so deposited shall be a credit to the said collector of taxes.

4. The collector of taxes shall pay over to the State Treasurer all balances in his hands belonging to the State, and finally adjust and settle his account with the Comptroller on or before the 1st day of May of each year; and to enable him to do so, the commissioners court shall convene on or before the third Monday in April for the purpose of examining and approving his final settlement papers.

5. The allowance of a delinquent and insolvent list to the collector, in accordance with Article 5170, shall not absolve any taxpayer or property thereon from the payment of taxes, but it shall be the duty of the collector to use all necessary diligence to collect the amounts due thereon, after it is allowed by the commissioners court, and he shall issue special tax receipts therefor, to be furnished by the Comptroller, which blank receipts shall be numbered and charged to the collector, who shall account for same at his next annual settlement, in the same manner as occupation tax receipts; he shall also make itemized monthly reports of such collections, using special blanks for that purpose.

6. To enforce the prompt and speedy collection and remittance of taxes, and to provide for the proper accounting of same, the Comptroller shall prescribe and furnish the forms to be used by collectors of taxes, and the mode and manner of keeping and stating their accounts, and shall adopt such regulations as he may deem necessary in regard thereto. It shall be his imperative duty to enforce a strict observance of all the provisions of these articles.

7. It shall be the duty of the Comptroller to notify the district attorney of the district, or the county attorney of the county in which the collector resides, and the sureties on the bond of the collector, of any failure to comply with any of the provisions of this article.

#### ART. 5168. DUTIES OF CLERK AND COLLECTOR. (1b.)

1. The collector of taxes shall, at the end of each month, make like reports to the commissioners court of all the collections made for the county, conforming as far as applicable and in like manner to the re-

quirements as to the collection and report of taxes collected for the State. The county clerk shall, likewise, within two days after the presentation of said report by the collector, examine said report and stubs, and certify to their correctness as regards names, dates and amounts, for which examination and certificate he shall be paid by the collector of taxes 50 cents each month, which amount shall be allowed to the collector by the commissioners court.

2. The clerk shall file said report intended for the commissioners court, together with the tax receipt stubs, in his office for the next regular meeting of the commissioners court.

3. The collector of taxes shall immediately pay over to the county treasurer all taxes collected for the county during said month, after reserving his commissions for collecting the same, and take receipts therefor, and file with the county clerk.

4. At the next regular meeting of the commissioners court the collector of taxes shall appear before said court and make a summarized statement, showing the disposition of all moneys, both of the State and county, collected by him during the previous three months. Said statement must show that all taxes due the State have been promptly remitted to the State treasury at the end of each month, and all taxes due the county have been paid over promptly to the county treasurer, and shall file proper vouchers and receipts showing same.

5. The commissioners court shall examine such statement and vouchers, together with the itemized report and tax receipt stubs filed each month, and shall compare the same with the tax rolls and tax receipt stubs. If found correct in every particular, and if the collector of taxes has properly accounted for all taxes collected, as provided above, the commissioners court shall enter an order approving said report, and the order approving same shall be recorded in the minutes, as other proceedings of said court.

6. The collector of taxes shall finally adjust and settle his account with the commissioners court for the county taxes collected at the same time and in the same manner as is provided in the foregoing article in his settlement with the State.

1. The fact that the rolls were marked "paid" opposite the names of persons to whom receipts were issued (when they had not paid) did not put the commissioners court on notice that more money had been collected than reported. The withholding by the tax collector from his reports of stubs of receipts issued when no payment had been made was such concealment as suspended the running of the statute of limitation. *Ward vs. Marion County*, 63 S. W. Rep., 155.

2. When the tax collector gave receipts, but did not collect the money, limitation ran against right of action against surety on his bond since the commissioners court would have discovered the wrong had they compared the collector's report with the tax roll and receipt stubs as they are required by law to do. *Ward vs. Marion County*, 62 S. W. Rep., 557.



ART. 5169. REPORT NOT TO BE APPROVED UNLESS.  
(ACTS OF 1893.)

If any collector of taxes shall have failed at the end of each month, or within three days thereof, to promptly remit to the State Treasurer the amount due by him to the State, or pay over to the county treasurer the amount due by him to the county, the commissioners court, at the next regular meeting, shall ascertain the facts, and if the collector of taxes fails or refuses to pay or remit the same and file proper vouchers therefor, as provided in the foregoing article, the commissioners court shall not approve his reports and accounts, but shall ascertain the amounts due by him, both to the State and county, and enter an order requiring him to pay the same to the proper treasurers, as is provided in Articles 5210 and 5211 of the Revised Statutes, and notify such collector, as is provided for in Article 4769a, Section 3, under penalty for failure to do so, in Section 4 of said article.

Whenever the collector of taxes shall fail or refuse to remit to the State Treasurer the amounts due the State, when requested, the Comptroller shall notify him under Article 4769a, Sections 3, 4, 5 and 7.

[NOTE.—Article 4769a, referred to in the Acts of 1893, is the Act of July 2, 1879, and so numbered in Sayles' Texas Civil Statutes, to which evidently reference was had. The first three sections are Articles 5210, 5211 and 5212 of this revision, and Sections 4, 5, 6 and 7 are the supplemental sections of Article 104 of the Penal Code.] (Codifiers of 1893.)

ART. 5170. LIST OF DELINQUENTS AND INSOLVENTS TO  
BE MADE OUT. (Ib.)

The collector of taxes shall make out, on forms to be furnished for that purpose by the Comptroller of Public Accounts, between April 1 and 15 of each year, lists of delinquent or insolvent taxpayers, the caption of which shall be the "list of delinquent or insolvent taxpayers." In this list he shall give the name of the person, firm, company, or corporation from whom the taxes are due, in separate columns, and he shall post one copy of these delinquent or insolvent lists at the court house door of the county, and one list at the court house door, or where court is usually held, in each justice precinct in his county; and the collector of taxes, upon the certificate of the commissioners court that the persons appearing on the insolvent or delinquent lists have no property out of which to make the taxes assessed against them, or that they have moved out of the county, and that no property can be found in the county belonging to such persons, out of which to make the taxes due, shall be entitled to a credit on final settlement of his accounts for the

amounts due by the persons, firms, companies, or corporations certified to by the commissioners court, as above provided for.

1. No tax collector shall be allowed credit for lists of delinquent or insolvent taxpayers, as provided in this article, until he makes oath in writing that he has exhausted all resources to collect said delinquent taxes under the provisions of Chapter 129, Acts of the Twenty-ninth Legislature, and other laws therein referred to. Acts of 1905, page 317; post Chapter 4a.

#### ART. 5171. COLLECTOR TO ENDEAVOR TO COLLECT DELINQUENT LIST. (Ib.)

The allowance of an insolvent list to the collector, in accordance with the provisions of the preceding article, shall not absolve any taxpayer or property thereon from the payment of taxes, but it shall be the duty of the collector to use all necessary diligence to collect the amounts due on the insolvent list after it is allowed, and report and pay over to the proper officers all amounts collected on the same.

#### ART. 5172. NON-RESIDENTS. (ACTS OF 1879.)

Non-residents of counties, owing State or county taxes, are hereby authorized to pay the same to the Comptroller of Public Accounts; provided, that all taxes due by said non-residents shall be paid at the Comptroller's office on or before the 1st day of January next after the assessment of such taxes; provided further, that the collectors of taxes shall be entitled to the commissions on all moneys paid by non-residents to the Comptroller of Public Accounts, due their counties respectively.

1. Non-residents can pay taxes to the Comptroller, and a levy can not be made before the expiration of the time within which the Comptroller can send the collector a list of the persons who have paid their taxes to him. *Allen vs. Courtney*, 58 S. W. Rep., 200.

#### ART. 5173. FORCED COLLECTIONS TO BEGIN WHEN. (ACTS OF 1887.)

If any person shall fail or refuse to pay the taxes imposed upon him or his property by law, until the 1st day of January next succeeding the return of the assessment roll of the county to the Comptroller, the collector of taxes shall, by virtue of his tax roll, seize and levy upon and sell so much personal property belonging to such person as may be sufficient to pay his taxes, together with all costs accruing thereon; provided, there shall be no levy on property when the owner thereof has the right to pay at the Comptroller's office, until a list of the persons who have paid their taxes at said office has been furnished the collector of taxes by the Comptroller. The Comptroller shall forward said list of paid

taxes on or before the 1st day of February of each year, and the tax collector shall, immediately on receipt of said list from the Comptroller, levy on and sell the property of such non-residents as have not paid their taxes, in accordance with the law regulating the sale of property for taxes.

[NOTE.—Under Section 16, Chapter 103, Acts of the Twenty-fifth Legislature, post Article 5232], forced collections are not to begin until the 31st day of January next succeeding the return of the assessment rolls of the county to the Comptroller.]

1. Non-residents can pay their taxes to Comptroller, and a levy can not be made before the expiration of the time within which the Comptroller can send the collector a list of the persons who have paid their taxes to him. *Allen vs. Courtney*, 58 S. W. Rep., 200.

2. Personal property in the hands of an assignee for creditors is subject to seizure and sale for taxes due on realty. *Wynne vs. Hardware Co.*, 67 Texas, 40; 1 S. W. Rep., 568.

3. A tax collector and his deputy collecting taxes by levy and sale in a district in which they have no authority to act, are liable in actual damages as trespassers. *Wright vs. Jones*, 38 S. W. Rep., 249.

4. Tax collector not authorized to levy on and sell personal property for taxes due on an assessment of land in name of "unknown owner." Opinion of Attorney General.

5. To constitute levy on personal property for taxes, the property must be reduced to actual possession by the collector; and when the delinquent volunteers payment before such reduction to possession, the collector is only entitled to costs accrued up to date of payment. Opinion of Attorney General.

#### ART. 5174. PERSONAL PROPERTY MAY BE POINTED OUT. (Ib.)

If any person shall point out to the collector of taxes sufficient personal property belonging to him to pay all taxes assessed against him before the 1st day of January of any year, the collector shall immediately levy upon and sell such property so pointed out, in accordance with the laws regulating tax sales of a similar class of property.

#### ART. 5175. WHEN PROPERTY ABOUT TO BE REMOVED FROM COUNTY. (Ib.)

If it comes to the knowledge of the collector that any personal property assessed for taxes on the rolls is about to be removed from the county, and the owner of such property has not other property in the county sufficient to satisfy all assessments against him, the collector shall immediately levy upon a sufficiency of such property to satisfy such taxes and all costs, and the same sell in accordance with the law regulating sales of personal property for taxes, unless the owner of such property shall give bond, with sufficient security, payable to and to be approved by the collector, and conditioned for the payment of the taxes due on such property, on or before the 1st day of January next succeeding.

ART. 5175a. TAX LIEN SUPERIOR TO ASSIGNMENT, ATTACHMENT, INHERITANCE OR DEVISE, EXCEPT.  
(ACTS OF 1895.)

In all cases where a taxpayer makes an assignment of his property for the payment of his debts, or where his property is levied upon by creditors, by writs of attachment or otherwise, or where the estate of a decedent is or becomes insolvent, and the taxes assessed against such person or party, or against any of his estate, remains unpaid in part or in whole, the amount of such unpaid taxes shall be a first lien upon all such property; provided, that when taxes are due by an estate of a deceased person, the lien herein provided for shall be subject to the allowances to widows and minors, funeral expenses, and expenses of last sickness; and such unpaid taxes shall be paid by the assignee, when said property has been assigned, by the sheriff out of the proceeds of sale in case such property has been seized under attachment or other writ, and by the administrator or other legal representative of decedents, and if said taxes shall not be paid, all said property may be levied on by the tax collector and sold for such taxes in whomsoever's hands it may be found.

1. This article does not amount to exemption, for it does not undertake to repeal any other legislation on the subject. Its purpose is to aid in the collection of taxes, and is not for the benefit of individuals. *State vs. Jordan*, 60 S. W. Rep., 1009.

2. This article has no bearing on the question as to the superiority of the landlord's lien, under Article 3237, over the claim of the children of a deceased tenant for an allowance in lieu of exemptions, under Article 2047. *Champion vs. Shumate*, 40 S. W. Rep., 394.

3. This article does not apply to a tax in favor of a municipal corporation incorporated under the general laws of this State. It creates a lien upon personal property when the conditions named in it exist. Such lien does not exist independent of this article. *Bank vs. City of Ennis*, 50 S. W. Rep., 632.

4. The court has authority to order taxes paid out of the proceeds of property sold under the foreclosure of a mechanic's lien. *Kahler vs. Betterton*, 51 S. W. Rep., 289.

ART. 5176. ALL PROPERTY LIABLE FOR TAXES. (ACTS OF 1879.)

All real and personal property held or owned by any person in this State shall be liable for all State and county taxes due by the owner thereof, including taxes on real estate, personal property and poll tax; and the collector of taxes shall levy on any personal or real property to be found in his county to satisfy all delinquent taxes, any law to the contrary notwithstanding.

1. The tax collector may seize and sell property exempt from taxation. *Ring vs. Williams*, 35 S. W. Rep., 733.

2. A tax collector who collects taxes upon property exempt from taxation is protected when the tax roll is legal in form and received from the proper authorities. *Land & Cattle Co. vs. Board*, 80 Texas, 489; 16 S. W. Rep., 312.

3. A sale of mortgaged property by the tax collector for taxes, where the mortgage is registered according to law and unsatisfied, must be made subject to the mortgage lien. Such mortgage given for the purpose of hindering or delaying the collection of taxes would be void. *Opinion of Attorney General*.

4. Where a delinquent assessment embraces personal property, real estate and poll tax, the redemption of any particular piece or parcel of such real estate, where it has changed hands, is permissible upon the payment only of the taxes assessed against it. *Opinion of Attorney General*.

5. Suit can be maintained for the collection of delinquent taxes due on personal property. *Henrietta vs. Eustis*, 87 Texas, 14; 26 S. W. Rep., 619; *San Antonio vs. Berry*, 92 Texas, 319; 48 S. W. Rep., 496.

#### ART. 5177. SALE OF PROPERTY, HOW MADE. (ACTS OF 1876.)

In making sales of personal property for taxes, the collector shall give notice of the time and place of sale, together with a brief description of the property levied on and to be sold, for at least ten days previous to the day of sale, by advertisements in writing to be placed at the court house door, and at two other public places in the county; and such sale shall take place at the court house door of the county in which the assessment is made, by public auction.

#### ART. 5178. IF PROPERTY IS INSUFFICIENT. (Ib.)

If personal property levied upon prove insufficient to satisfy the taxes and penalties due and costs accrued thereon, the collector shall levy upon and sell so much other personal taxable property belonging to the person as will be sufficient to satisfy such taxes, penalties and costs in the same manner as an original levy and sale; and in all cases of sales for taxes, if there be an excess remaining in the hands of the collector, after satisfying all taxes, penalties and costs, the same shall be paid over to the original owner by the collector, or deposited in the hands of the county treasurer subject to the order of such owner.

#### ART. 5179. SALES OF PROPERTY, WHEN MADE. (Ib.)

If the delinquent is not possessed of a sufficiency of personal property in the county, subject to seizure and sale, to satisfy all taxes due by him, the collector of taxes shall seize so much of the real estate of such delinquent, situated in the county, as will be sufficient to satisfy such taxes and all costs, and the same sell in accordance with the provisions of the succeeding article.



## ART. 5180. ADVERTISEMENTS OF REAL PROPERTY FOR SALE, ETC. (ACTS OF 1881.)

In making sales of real property for taxes the collector shall advertise the same for sale in some newspaper published in the county where the land is to be sold, for three successive weeks, if there be one, and the publisher of such newspaper shall receive as compensation not exceeding 25 cents for each tract or parcel of land so advertised, to be taxed as other costs of sale against such land; provided, the cost of advertising in a newspaper shall be deducted from the fees allowed the collector for advertising; and provided, that the Comptroller shall allow the collector 25 cents per tract for each tract of land bid off by the State; and if there be no newspaper published in the county, or there being a newspaper published in the county, and the publisher thereof refuses to publish the advertisement at the price herein fixed, then advertisement shall be made by posting the same for thirty days previous to the day of sale, at the court house door and three other public places in the county where the land or lots are situated, giving in said advertisement such description as is given to the same on the tax rolls in his hands, stating the name of the owner, if known, and if unknown say "unknown," together with time, place and terms of sale, said sale to be for cash, to the highest bidder, at public outcry, at the court house door, and between legal hours, on the first Tuesday of the month.

## ART. 5181. LIST TO BE POSTED. (ACTS OF 1879.)

Prior to the sale of any real property for taxes in any county in this State the collector of taxes shall advertise the same by posting a list of the names of the delinquents for thirty days as follows: One copy at the court house door of the county, and a copy at two other public places in the county where the lands or lots are situated.

ART. 5182. MAY BE CONTINUED FROM DAY TO DAY.  
(ACTS OF 1876.)

As far as may be practicable all the lands and town lots levied upon for taxes shall be advertised in one notice and be sold on the same day; and such sales may be continued from day to day until concluded, but at the close of each day's sale the collector of taxes shall make proclamation of such continuance on the following day. No sale shall be considered complete until the payment of the purchase money, and if the same is not paid before the completion of the tax sales, the collector

shall resell the property, and continue such sale until the same is complete.

#### ART. 5183. HOMESTEADS LIABLE ONLY FOR THEIR OWN TAXES. (Ib.)

No real estate set apart, used or designated as a homestead shall be sold for taxes other than the taxes due on such homestead.

1. The homestead is not protected by the Constitution from forced sale for lawful taxes that may be due on it. *Lufkin vs. Galveston*, 58 Texas, 545.

2. Homesteads are exempt from forced sale for taxes, except such as are assessed against them. *Wright vs. Straub*, 64 Texas, 64.

3. In a foreclosure suit for taxes on a homestead the wife is not a necessary party. The owner has two years after sale to redeem. *Berry vs. City of San Antonio*, 46 S. W. Rep., 273.

4. Under the Constitution, a tax lien exists on a homestead for the taxes thereon, with interest, and the cost of assessment and collection, including costs of suit, but not for the penalty provided by the Act of 1897, nor for interest, costs and penalty due on taxes on other property. *City of Marlin vs. Green*, 78 S. W. Rep., 704.

#### ART. 5184. SALES OF LAND, HOW MADE. (Ib.)

The collector of taxes, in making sales for taxes due upon real estate, shall sell at auction, at the time and place appointed, so much of said real estate as may be necessary to pay the taxes and penalties due and all costs accruing thereon, and shall offer said real estate to the bidder who will pay the taxes and penalties due, and costs of sale and execution of deed, for the least amount of said real estate, who shall be deemed the highest bidder. Should a less amount of said real estate than the whole tract or parcel of said real estate levied upon be sold for the taxes and penalties due and all costs of sale and execution and deed, the collector shall, in making his deed to the purchaser, begin at some corner of said tract or parcel of land or town lot and designate the same in a square as near as practicable.

1. This article does not apply to sales by the sheriff under foreclosure as provided by Chapter 5a, Revised Statutes. *Masterson vs. State*, 42 S. W. Rep., 1003.

#### ART. 5185. THE TAX DEED AND ITS REQUISITES. (Ib.)

The collector of taxes shall execute and deliver to the purchaser, upon the payment of the amount for which the estate was sold, and costs and penalties, a deed for the real estate sold, which deed shall vest a good and perfect title to said land in the purchaser, if not redeemed in two years, as hereinafter provided; which deed shall state the cause of sale, the amount sold, the price for which the real estate was sold, the name

of the person, firm, company or corporation on whom the demand for the taxes was made; provided, the name is known, and if unknown say "unknown," the same description of the land as is given in the tax rolls, and such other description as may be practicable for better identification; and when real estate has been sold he shall convey, subject to the right of redemption provided for in Article 5187, all the right and interest which the former owner had therein at the time when the assessment was made.

ART. 5186. SALES TO BE REPORTED TO COMMISSIONERS COURT. (Ib.)

When the collector of taxes shall have made sale of any real estate under this chapter, it shall be his duty to make immediate return of said sale to the commissioners court, stating in said return the land sold, the name of the owner, if known, and if unknown, state the fact, the time of the sale, the amount for which said sale was made, together with the name of the purchaser, which return shall be entered of record on the minute books of said court.

ART. 5187. REDEMPTION OF LAND SOLD FOR TAXES. (Ib.)

The owner of real estate sold for the payment of taxes, or his heirs or assigns or legal representatives may, within two years from the date of sale, redeem the estate sold by paying or tendering to the purchaser, his heirs or legal representative, double the amount of money paid for the land.

1. A tender to the purchaser at tax sale of the proper amount within the time prescribed by law works ipso facto an immediate redemption of the land. *Burns vs. Ledbetter*, 54 Texas, 374.

ART. 5187a. SAME. (ACTS OF 1905.)

That the owner or any one having an interest in land or lots heretofore sold to the State or any city or town, or which may hereafter be sold to the State or to any city or town for taxes under decree of court, as provided in Acts of 1895, Chapter 42, and 1897, Chapter 103, shall have the right within two years from the date of such sale to redeem the same upon payment of double the amount of taxes for which sale was made, together with all costs, penalty and interest now required by law; provided, that where lands or lots have heretofore been sold to the State or to any city or town for taxes under order of court, the owner of such land or lots shall have the right to redeem the same within two years

after the passage of this act; provided, that at any time within twelve months from the date of such sale redemption may be made upon payment of the amount of taxes, penalty and interest for which judgment has been entered, with 10 per cent interest thereon from date of judgment, and all costs adjudged against the land.

Approved April 17, 1905.

Takes effect 90 days after adjournment.

ART. 5188. REDEMPTION FROM PRIVATE PURCHASER.  
(ACTS OF 1879.)

Any person having the right to redeem any land sold at tax sale may do so by payment, within the time prescribed by law, to the collector of taxes of the county in which the said land was sold, of the amount which the law requires to be paid; provided, that the owner of said land, or his agent, shall first have made affidavit before some officer authorized by law to administer oaths, that he has made diligent search in the county where said land is situated for the purchaser thereof at the tax sale, and has failed to find him; or that the purchaser at such tax sale is not a resident of the county in which the land is situated, or that he and the purchaser can not agree on the amount of redemption money. In such cases only shall the owner or agent be authorized to redeem the same by the payment to the collector of taxes.

ART. 5189. RECEIPT OF COLLECTOR NOTICE, WHEN. (Ib.)

It shall be the duty of any collector of taxes, to whom payment is made under the provisions of this chapter, to give a receipt therefor, signed by him officially, in the presence of two witnesses, which said receipt, when duly recorded, shall be notice to all persons that the land therein described has been redeemed; and the collector of taxes shall, on demand, pay over to the purchaser at said tax sale the money thus received by him.

ART. 5190. RELIEF WHEN. (ACTS OF 1881.)

Any person whose land has been rendered for taxation, whether the same was rendered in the name of the original grantee or not, and has also been placed upon the unrendered rolls for the same year, shall be entitled to relief upon complying with the requirements hereinafter indicated.

## ART. 5191. SAME. (Ib.)

If any such lands shall have been sold for the taxes charged upon the unrendered rolls, and bought by the State, the owner thereof, his agent or attorney, shall present to the tax collector of the county in which the land is situated a sworn statement to the effect that the same land has been rendered for taxation, and placed upon the regular assessment rolls for the year mentioned. Said affidavit shall contain an accurate description of the land, and be accompanied with the certificate of the assessor that the same is true and correct; and the tax collector shall thereupon present such person with a written statement, officially signed, that said tax has been canceled, and make a note of the same upon the unrendered rolls; provided, the provisions of this article shall apply to such lands at any time after the collector shall receive the rolls until the same shall have gone into the hands of a private purchaser; and if the owner shall have paid the taxes charged upon the unrendered rolls at any time previous he shall be entitled to the warrant of the Comptroller for the amount so paid, in the same manner as is provided in Article 5192 of this chapter, in cases of redemption from individual purchasers; provided further, that the tax collector shall make no charge whatever for the duties herein mentioned.

## ART. 5192. CERTIFICATE OF REDEMPTION FROM COLLECTOR. (Ib.)

When the owner of such lands shall have redeemed the same from a private purchaser it shall be the duty of the tax collector to furnish him a certificate to that effect; and upon presentment of said certificate to the Comptroller, the Comptroller shall issue to him a warrant upon the treasury of the State for the amount of such tax. This warrant shall be receivable for all taxes to the State. For issuing the certificate provided for in this article the tax collector shall be allowed the sum of 50 cents, to be paid by the applicant.

ART. 5193. LANDS TO BE BID IN FOR STATE, WHEN.  
(ACTS OF 1879.)

Should the collector of taxes fail to make sale of any real estate for want of a purchaser, he shall bid the same off for the State for the taxes and penalties due and all costs accruing thereon, and execute a deed to the State; and one deed shall include all tracts of land bid off to the State at such tax sale, and make due return thereof, under such forms and directions as the Comptroller may furnish and direct; and after



sale and purchase by the State of any real estate it shall not be lawful for said collector to levy upon or advertise or sell the same for any remaining or accrued taxes due thereon until the same shall have been redeemed by the owner or is sold by the State. Said collector shall, on final settlement of his accounts with the commissioners court and the Comptroller of Public Accounts, be entitled to a credit for the amount of taxes due the State and county, respectively, for which the land and lots were bid off to the State.

ART. 5194. MAY REDEEM, HOW. (Ib.)

The owner, or his agent, of any lands that may have been conveyed to the State under the provisions of the foregoing article, desiring to redeem the same, may do so by depositing with the collector of the county in which the lands were sold double the amount of the purchase money and all accrued taxes thereon, within two years from the date of the deed to the State, and it shall be the duty of such collector to execute a receipt to such owner, or agents, giving therein the amount of money received, and a description of the land so as to identify the same, and sign and seal the same officially, and upon presentation of such receipt to the Comptroller of Public Accounts, he shall execute to the owner a relinquishment under his signature and seal of office, which may be admitted to record in like manner with other conveyances of land.

ART. 5195. IF NOT REDEEMED. (Ib.)

In case said land shall not have been redeemed as provided in Article 5194, then the same may be sold as provided by Article 5193.

ART. 5196. MAY REDEEM BY PAYING COSTS, ETC. (Ib.)

The owner of real estate which has been bought in by the State for taxes, his heirs or assigns may redeem the same at any time prior to the sale thereof, by the payment to the collector of the county in which such real estate is situated, or to the Comptroller if in an unorganized county, of the amount designated by the Comptroller as due thereon with costs of advertisement; and provided further, that if it shall at any time appear to the satisfaction of the Comptroller that any land has been sold to the State for taxes which have been paid, or that the sale has not been made in accordance with the law authorizing the sale of land for taxes, he shall, upon the payment of the amount that may be due thereon, cancel such sale, and in all cases he shall deliver to the owner of the land, or his agent, a certificate under seal of his depart-

ment, setting forth the fact that such land has been redeemed or that such sale has been cancelled, which certificate shall release the interest of the State, and the same may be recorded in the proper county as other conveyances of real estate are recorded.

ART. 5197. COMMISSIONERS COURT TO SIT AS A BOARD OF INQUIRY, WHEN. (ACTS OF 1889.)

The commissioners courts of the several counties in this State shall, at the regular terms of said courts, sit as a court of inquiry in cases where land has been erroneously rendered for taxes; and any land owner whose land has been or may be sold to the State for taxes may appear before said court in person or by proxy and show to the satisfaction of a majority of said court that the taxes for which his or her lands have been sold have been paid, although the same was rendered in an incorrect abstract number or survey or original grantee; thereupon said commissioners court shall issue to the said land owner a certificate setting forth fully said facts, which certificate shall be signed officially by the county judge of said county; and upon the presentation of said certificate to the Comptroller of Public Accounts he shall execute and deliver to said land owner a valid deed relinquishing all the right, title and interest the State may have acquired in and to said land by reason of such tax sale.

ART. 5198. TAX SALES OF TOWNS AND CITIES. (ACTS OF 1876.)

The provisions of this chapter in reference to the seizure and sale of real and personal property for taxes, penalties and costs due thereon, shall apply as well to collectors of taxes for towns and cities as for collectors of taxes for counties, and they shall be governed in selling real and personal property by the same rules and regulations in all respects as to time, place, manner and terms and making deeds as are provided for collectors of taxes for counties.

ART. 5198a. REDEMPTION OF LAND SOLD FOR CITY OR TOWN TAXES. (ACTS OF 1899.)

That all lands sold under and by virtue of decree and judgment of court for taxes due any incorporated city or town within this State may be redeemed by the owner or owners thereof within two years from the date of deed upon the payment to the purchaser, or his assigns, of double the amount so paid, including costs of court; provided, that purchaser

at such foreclosure sale, and his assigns, shall not be entitled to the possession of the property sold for taxes until the expiration of two years from the date of deed.

1. The purchaser at foreclosure of tax lien sale is not entitled to possession until expiration of two years from date of deed. *City of Marlin vs. Green*, 79 S. W. Rep., 40.

[NOTE.—Articles 5199 (4761), 5200 (4762), 5201 (4763), 5203 (4764), 5204 (4765) and 5205 (4766) were repealed by the Act of 1893.] (Codifiers of 1895.)

#### ART. 5202. COLLECTOR TO FILE COMPLAINT, WHEN. (ACTS OF 1887.)

It shall be the duty of the tax collector to make an affidavit before any justice of the peace against any person, firm or association of persons engaged in or pursuing any occupation on which, under the laws of this State, a tax is imposed, who fails or refuses to pay the same.

#### ART. 5206. COMPENSATION. (ACTS OF 1897.)

There shall be paid for the collection of taxes, as compensation for the services of the collector, beginning with the 1st day of September of each year, 5 per cent on the first \$10,000 collected for the State, and 4 per cent on the next \$10,000 collected for the State, and 1 per cent on all collected over that sum; for collecting the county taxes, 5 per cent on the first \$5000 of such taxes collected, and 4 per cent on the next \$5000 collected, and 1  $\frac{1}{4}$  per cent on all such taxes collected over that sum, and in counties owing subsidies to railroads, the collectors shall receive only 1 per cent for collecting such railroad tax; and in cases where property is levied upon and sold for taxes, he shall receive the same compensation as allowed by law to sheriffs or constables upon making a levy and sale in similar cases, but in no case to include commissions on such sales.

1. County tax collectors are entitled to the same compensation for selling property for taxes as sheriffs get for execution sales. *Eustis vs. Henrietta*, 91 Texas, 325; 43 S. W. Rep., 259.

2. Tax collectors are entitled to 15 cents for issuing each poll tax receipt and certificate of exemption, regardless of the vote cast at the last preceding Presidential election. Opinion of Attorney General.

3. Under Section 144 of the election law passed by the Twenty-ninth Legislature, the fees of tax collectors for issuing poll tax receipts and certificates of exemption are payable, six-sevenths by the State and one-seventh by the county. Ruling of Comptroller.

#### ART. 5207. FOR OCCUPATION TAX. (Ib.)

And on all occupation and license taxes collected, 5 per cent.

## ART. 5208. COMPENSATION FOR ONE LEVY ONLY, ETC.

In making levies upon different tracts of land belonging to the same individual, corporation or company, the collector shall be entitled to charge for only one levy; and in all cases of advertisement of lands for tax sales he shall be entitled to charge for any one tract the exact proportion of the amount paid for the whole advertisement which said tract bears to all other tracts advertised, and no more. And for any greater charge under this article the collector shall be deemed guilty of extortion and be punished as provided in the Penal Code.

1. A county or city collector can charge for only one levy, no matter how many pieces of property belonging to the same man are included in the levy. *Enstis vs. Henrietta*, 91 Texas, 325; 43 S. W. Rep., 259.

## ART. 5209. TAXES UPON LANDS OF NON-RESIDENTS IN UNORGANIZED COUNTIES.

The taxes upon lands lying in and owned by non-residents of unorganized counties, and upon lands situated in the territory not laid off into counties, shall be paid and collected at the office of the Comptroller of Public Accounts, under such regulations as he may adopt for that purpose.

## ART. 5210. PAYMENTS OF MONEYS. (ACTS OF 1879.)

All tax collectors and other officers or appointees authorized to receive public moneys shall account for all moneys in their hands belonging to the State, and pay the same over to the State Treasurer whenever and as often as they may be directed so to do by the Comptroller of Public Accounts; provided, that tax collectors shall have thirty days from the date of such direction within which to comply with the same.

## ART. 5211. SAME. (Ib.)

All tax collectors and other officers or appointees authorized to receive public moneys shall account for all moneys in their hands belonging to their respective counties, cities or towns, and pay the same over to the respective county treasurers or city treasurers, whenever and as often as they may be directed so to do by the respective county judges, or county commissioners courts, or mayor or board of aldermen; provided, that tax collectors shall have ten days from the date of such direction within which to comply with the same.

## ART. 5212. NOTIFICATION TO PAY, ETC. (Ib.)

The notification and direction provided for in the two preceding articles may be verbal, written, or by telegram; and if written or by telegram, proof of the deposit in the postoffice or telegraph office of such notification and direction, with postage or charges duly prepaid and correctly addressed, shall be prima facie evidence of the fact of such notification and direction having been given, and of the time when the same was given.

ART. 5212a. DUTY OF DISTRICT AND COUNTY ATTORNEYS  
TO SUE FOR TAXES ON PERSONAL PROPERTY.  
(ACTS OF 1895.)

Hereafter it shall be the duty of the district or county attorney of the respective counties of this State, by order of the commissioners court, to institute suit in the name of the State for the recovery of all money due the State and county as taxes due and unpaid on unrendered personal property; and in all suits where judgments are obtained under this act the person owning the property on which there are taxes due the State and county shall be liable for all costs; provided, such suits may be brought for all taxes so due and unpaid for which such delinquent taxpayer may be in arrears for and since the year 1886; and provided further, the State and county shall be exempt from liability for any costs growing out of such action; provided, all suits brought under this article for the recovery of taxes due on personal property shall be brought against the person or persons who owned the property at the time such property should have been listed or assessed for taxation; provided, that no suit shall be brought until after demand is made by the collector for taxes due; and provided further, that no suit shall be brought for an amount less than twenty-five dollars.

1. This article was not intended to create any liability for taxes, but only to provide an additional method of collecting taxes from the persons already liable. That is to say, the taxes are "due" from the person sued, within the meaning of this article, until there has been a valid assessment against him. *Connell vs. State*, 55 S. W. Rep., 980.

2. No right of action exists for the non-payment of an ad valorem property tax until an assessment has been made as provided by law. *Connell vs. State*, 55 S. W. Rep., 980.

3. The justice court and not the district court has jurisdiction of an action under this article to recover taxes in the sum of \$120.77, and the statutory penalty of 10 per cent, since it is an action on a debt, and the amount due is within the jurisdiction of the justice court. *State vs. Trilling*, 62 S. W. Rep., 788.

4. A petition in a suit under this article which only alleges that defendant was in possession of the property, does not contain sufficient allegation of ownership, as against a demurrer specifically raising such objection. *State vs. Trilling*, 62 S. W. Rep., 788.



ART. 5212b. LIMITATION NOT AVAILABLE TO DELIN-  
QUENT TAXPAYER. (ACTS OF 1895.)

No delinquent taxpayer shall have the right to plead in any court or in any manner rely upon any statute of limitation by way of defense against the payment of any taxes due from him or her either to the State or any county, city or State.

## CHAPTER IVa.

### TAXES—DELINQUENT—PROVIDING FURTHER METHODS FOR COLLECTION OF.

	Art.
Delinquent list to be sent to another county, when.....	5212c
Collector to make affidavit.....	5212d

#### ART. 5212c. DELINQUENT LIST TO BE SENT TO ANOTHER COUNTY, WHEN. (ACTS OF 1905.)

That whenever it shall appear to the collector of taxes in any county in this State that any person who is a delinquent in the payment of his or her taxes, has no property in his county out of which said amount of taxes can be collected, it shall be the duty of such collector to make out from the assessment list a true and complete list or schedule of the taxes due by said delinquent, which shall be certified to under the official seal and signature of said collector, and to forward the same to the collector of taxes of any other county or counties where he shall have reason to believe said delinquent has property of any description, and if said property is in any of the unorganized counties of this State, then to the collector of the county to which said unorganized county is attached for judicial purposes, and when received by said collector, he shall at once proceed to the collection of said tax by seizure and sale, in the same manner as if said taxes were originally assessed and due in his said county, and shall report to the collector from whom said list was received the taxes so collected by him.

#### ART. 5212d. COLLECTOR TO MAKE AFFIDAVIT. (Ib.)

No tax collector in this State shall be allowed credit for lists of delinquent or insolvent taxpayers, as provided by Article 5170 of the Revised Statutes of this State, until he makes oath in writing that he has exhausted all resources to collect said delinquent taxes under this act, and under Section 10 of Acts of the Twenty-fifth Legislature, Regular Session, Chapter 103; and under Articles 5173, 5174, 5175, and 5175a of the Revised Statutes of this State.

## CHAPTER IV<sub>B</sub>.

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### AUTHORIZING REDEMPTION OF LANDS SOLD FOR TAXES TO STATE OR CITY.

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Art.

To pay double amount of taxes and costs ..... 5212e

#### ART. 5212e. TO PAY DOUBLE AMOUNT OF TAXES AND COSTS, ETC. (ACTS OF 1905.)

That the owner or any one having an interest in land or lots heretofore sold to the State or any city or town, or which may hereafter be sold to the State or to any city or town for taxes under decree of court, as provided in Acts of 1895, Chapter 42, and 1897, Chapter 103, shall have the right within two years from the date of such sale to redeem the same upon payment of double the amount of taxes for which sale was made, together with all costs, penalty and interest now required by law; provided, that where lands or lots have heretofore been sold to the State or to any city or town for taxes under order of court, the owner of such land or lots shall have the right to redeem the same within two years after the passage of this act; provided, that at any time within twelve months from the date of such sale redemption may be made upon payment of the amount of taxes, penalty and interest for which judgment has been entered, with 10 per cent interest thereon from date of judgment, and all costs adjudged against the land.

Became effective 90 days after adjournment.

## CHAPTER IVc.

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### LANDS—RELATING TO REDEMPTION OF, WHEN SOLD FOR TAXES.

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	Art.
What title or possession sufficient to entitle owner to redeem .....	5212f

#### ART. 5212f. WHAT TITLE OR POSSESSION SUFFICIENT TO ENTITLE OWNER TO REDEEM. (ACTS OF 1905.)

That in all cases where lands in this State have been, or may be sold for taxes, and the owner of the land at the time of such sale, shall desire to redeem the same, under the provisions of the Constitution of this State or of laws enacted on that subject, it shall be sufficient to entitle such owner to redeem from the purchaser or purchasers thereof, for him to have had a paper title to such land, or to have been in possession of such land in person or by tenant, at the time of the institution of the suit under which the sale was made, or when such sale was made, and the existence of such facts and conditions shall be sufficient prima facie evidence of ownership to entitle the party so claiming ownership to the right to redeem such land, and he shall not be required to deraign title from the sovereignty, nor shall any hiatus or defect in his chain of title defeat the offered redemption. Nothing herein contained shall be held to limit the right of one offering to redeem to prove ownership otherwise than herein provided, nor prevent any one having the superior title from redeeming such land within two years from the date of the tax sale by paying to the person who had previously redeemed such lands all amounts paid by him with legal interest.

## CHAPTER V.

OF THE ASSESSMENT AND COLLECTION OF BACK TAXES ON  
UNRENDERED LANDS.

	Art.		Art.
Back taxes on unrendered lands.....	5213	Advertisement of sale and redemption	
Comptroller to prepare list each year..	5214	by owner .....	5222
And forward same to board of equal- ization .....	5215	Land sold, how.....	5223
The board to value such lands.....	5216	Sale may be continued, etc.....	5224
And cause three rolls to be made.....	5217	Deed executed, when and how.....	5225
Collector to give notice.....	5218	Same .....	5226
And enforce collection after sixty days	5219	Effect of deed.....	5227
Comptroller to make out list of lands		Report of sale.....	5228
sold to State, etc.....	5220	Proceeds of sale paid to whom.....	5229
Sale, when and how made.....	5221	Collections applied, how.....	5230
		Cost deducted by collector, etc.....	5231
		Unsold land reported to Comptroller..	5232

ART. 5213. BACK TAXES ON UNRENDERED LANDS. (ACTS  
OF 1876.)

In all cases where lands or real estate have not been assessed for taxation for any year since the year one thousand eight hundred and seventy, the same shall be assessed and the taxes thereon collected in the mode prescribed in this chapter.

ART. 5214. COMPTROLLER TO PREPARE LIST EACH  
YEAR. (Ib.)

On the 1st day of July of each year the Comptroller of Public Accounts shall cause to be prepared a list of all unrendered lands in each county subject to taxation and not assessed, in which shall be specified the name of the original grantee, the abstract number, the number of acres, the year for which such lands were unrendered, and the rate of State and county taxes for such year.

ART. 5215. AND FORWARD SAME TO BOARDS OF EQUAL-  
IZATION. (Ib.)

Upon completion of such lists the Comptroller shall forward the same to the board of equalization of the respective counties, with the verification that the said list is a true and correct statement of all the unren-



dered land and real estate in ——— county for the year ———, as shown by the records of his office.

ART. 5216. THE BOARD TO VALUE SUCH LANDS. (Ib.)

Upon receipt of such list or lists by the board of equalization of such county, it shall be their duty to value each and every tract of land or parcel of real estate so mentioned and described in the said lists at their true and full value, as near as can be ascertained, for the year it was omitted to have been rendered.

ART. 5217. AND CAUSE THREE ROLLS TO BE MADE. (Ib.)

When the board of equalization shall have completed the valuation they shall cause to be made out three separate rolls, in such manner as may be prescribed by the Comptroller; they shall place one in the hands of the collector of taxes, forward one to the Comptroller of the State, and file one in the office of the county clerk for the inspection of the public.

ART. 5218. COLLECTOR TO GIVE NOTICE. (Ib.)

Upon receipt of the rolls by the collector of taxes he shall advertise in some weekly newspaper published in his county, and if no paper is published in his county, by posting printed circulars in not less than eight public places in his county, for four consecutive weeks, that the rolls for the collection of taxes on unrendered land and real estate have been placed in his hands, and that unless the taxes are paid within sixty days after the date of said notice he will proceed to collect the same as provided by law for the collection of delinquent taxes.

ART. 5219. AND ENFORCE COLLECTIONS AFTER SIXTY  
DAYS. (Ib.)

After the expiration of sixty days, if the taxes on any such lands are not paid, the collector of taxes shall proceed to enforce the collection of said taxes in the mode provided in the preceding chapter for the enforced collection of delinquent taxes, and he shall be entitled to the same fees and penalties as are allowed him for the collection of other delinquent taxes.

## ART. 5220. COMPTROLLER TO MAKE OUT LIST OF LANDS SOLD TO STATE, ETC. (ACTS OF 1879.)

It shall be the duty of the Comptroller of Public Accounts, on or before the first day of each year, to make out and forward to the collector of taxes in each county of the State a full and complete list of all real estate situated in said county that has been previously, at tax sales, bid off to the State for taxes assessed in the county where the land is situated, since the 31st day of December, 1876, the owners of which have failed to redeem the same within two years from the date of said sale by payment or tender of payment to the proper officer of double the amount of taxes and costs for which said real estate was bid off to the State, together with all subsequent taxes that have become due on the same from the date of sale to the last date on which the same could have been redeemed.

## ART. 5221. SALE, WHEN AND HOW MADE. (Ib.)

It shall be the duty of each collector of taxes, within ninety days after receipt of said list, to call to his aid the county surveyor of his county, and, near as may be, ascertain if any lands contained in said list do not in fact exist in said county, or are embraced in other surveys conflicting therewith, and upon which the taxes have been paid, and after deducting the same from said list, he shall proceed to sell each tract of land therein described, whether belonging to residents or non-residents, for the payment of such sums of money as may be designated on said list as due thereon, together with all costs that may accrue in advertising and selling the same as herein provided.

## ART. 5222. ADVERTISEMENT OF SALE AND REDEMPTION BY OWNER. (Ib.)

The collector of taxes shall, prior to the sale of any real estate that has been previously bid off to the State at tax sales, the owners of which have failed to redeem the same, advertise the real estate to be sold in some newspaper published in the county for six successive weeks, if there be such newspaper published therein, otherwise he shall post advertisements of said sale at the court house door and at one public place in each justice precinct of his county for at least six weeks, giving in said advertisement, whether published or posted, such description of the lands to be sold as shall be given on the Comptroller's list, and stating the time, place and terms of sale, which shall be between legal hours on the first Tuesday of some specified month at the court house door at public

outery, to the highest bidder for cash; provided, that no real estate shall in any case be sold for less than the amount designated by the Comptroller as due thereon, together with all costs of advertisements and sale; and provided further, that no sales shall be made under the provisions of this chapter until six months after the same goes into effect; and provided further, that the former owner of any such real estate, his heirs or assigns, may redeem the same at any time prior to the sale thereof, by the payment to the collector of the county in which such real estate is situated, or to the Comptroller, if in an unorganized county, of the amount designated by the Comptroller as due thereon, with costs of advertisement; and provided further, that if it shall at any time appear to the satisfaction of the Comptroller that any land has been sold to the State for taxes which have been paid, or that the sale has not been made in accordance with the law authorizing the sale of land for taxes, he shall, upon the payment of the amount that may be due thereon, cancel such sale, and in all cases he shall deliver to the owner of the land, or his agent, a certificate under seal of his department, setting forth the fact that such land has been redeemed or that such sale has been cancelled, which certificate shall release the interest of the State, and the same may be recorded in the proper county as other conveyances of real estate are recorded.

ART. 5223. LAND, SOLD HOW. (ACTS OF 1879.)

At the time and place appointed for said sale the collector of taxes shall offer for sale each separate parcel of the real estate advertised, and shall sell the same to the bidder who will offer the largest amount of money therefor.

ART. 5224. SALE MAY BE CONTINUED, ETC. (Ib.)

If the sale of the real estate advertised as provided herein shall not be completed on the day it is commenced, said sale may be continued for ten consecutive days, from day to day, by announcement of the tax collector to that effect, and the said collector may, if there be on any day a less number than three bidders present, adjourn said sale to the first Tuesday in the following month.

ART. 5225. DEED EXECUTED, WHEN AND HOW. (Ib.)

When a sale has been made of any real estate as herein provided, the collector of taxes, upon payment of the amount bid for the same, shall make, execute and deliver to the purchaser a deed for such real estate,

specifying in said deed the cause and date of sale, the number of acres sold, if the same can be ascertained, the name of the person, firm, corporation or company in whose name the land was assessed, and all such descriptive information as may be necessary to identify the property conveyed; provided, that the purchaser may, after payment, as described in this article, ask a delay of sixty days within which to have said real estate surveyed by the county surveyor, said survey to be made at the expense of the purchaser, and, upon a certificate from the collector directed to the surveyor that the person named in the certificate has purchased and paid for the same, not to exceed one dollar for each survey, to be paid for out of the sale of such survey.

#### ART. 5226. SAME. (Ib.)

When a survey has been made, as provided in the preceding article, and a copy of the field notes, certified to as true and correct by the county surveyor, filed with the collector of taxes, the said collector shall thereupon make, execute and deliver to the purchaser a deed to said real estate, which deed shall, in addition to the requisite hereinbefore named, contain the field notes certified by the county surveyor.

#### ART. 5227. EFFECT OF DEED. (Ib.)

Deeds made, executed and delivered by collectors of taxes under the authority of this chapter shall be held to vest a good and perfect title to the real estate therein described in the purchaser, and may be impeached only by frauds; provided, that the former owner shall have two years from the date of said deed to redeem the same by paying to the purchaser double the amount paid for said land by the purchaser at such sale, together with all subsequent taxes paid by the purchaser, with 8 per cent interest on the amount of such subsequent taxes.

#### ART. 5228. REPORT OF SALES. (Ib.)

Within thirty days after sales made under the provisions of this chapter, the collector of taxes shall make a report to the commissioners court of his county, and also to the Comptroller of Public Accounts, giving in said reports such description of the real estate sold as is given in the Comptroller's list, and stating the amounts due the State, county and collector, respectively, and the amount for which said land was sold, and the name of the party to whom each tract was sold.

## ART. 5229. PROCEEDS OF SALE, PAID TO WHOM. (Ib.)

Collectors of taxes shall, within sixty days after payments for real estate sold under the provisions of this chapter, after deducting from the proceeds of sale all costs due to them or their predecessors in said office, pay into the county treasury of the county in which said real estate is situated the amount of taxes shown by the Comptroller's list to be due to said county, and the balance of said proceeds shall be paid by him into the treasury of the State within the said sixty days, in such manner as may be directed by the Comptroller of Public Accounts.

## ART. 5230. COLLECTIONS APPLIED, HOW. (ACTS OF 1884.)

Taxes collected by State or county, by sales made under the provisions of this chapter, shall be placed to the credit of the different funds for which originally assessed under the direction respectively of the Comptroller of Public Accounts and the commissioners court of the county in which the sale is made; the balance of the proceeds, after satisfying all taxes, penalties and costs accrued, shall, under direction of the Comptroller, be placed in the treasury of the State as a special tax sale fund, and be subject to be reclaimed by the owner or owners of the land on proof as required in case of escheated estates.

ART. 5231. COSTS DEDUCTED BY COLLECTOR, ETC.  
(ACTS OF 1879.)

The collector of taxes shall be entitled to deduct and retain out of the proceeds of sale of each separate parcel of real estate sold, as hereinbefore provided:

1. Such amount as may be designated in the Comptroller's list as costs due thereon to the collector.
2. If the advertisement of sale is published in a newspaper, such a proportion of the actual amount paid for advertising as the number of acres in such separate parcel sold bears to the whole number of acres advertised; or if the advertisements are posted, the sum of one dollar.
3. Two dollars for every deed made, executed and delivered under the provisions of this chapter.

## ART. 5232. UNSOLD LAND REPORTED TO COMPTROLLER. (Ib.)

If, after the expiration of ninety days after the receipt by the collector of taxes of the Comptroller's list, any real estate described in said list shall remain unsold, it shall be the duty of the said collector



to make separate reports of such fact to the commissioners court of his county and the Comptroller of Public Accounts, respectively, and the said parcels of real estate shall be embraced in the next list furnished by the Comptroller of Public Accounts to the collector of taxes.

## CHAPTER VA.

## DELINQUENT TAXES.

	Art.		Art.
Land and improvements subject to taxation . . . . .	5232a	Penalty for failure to pay taxes; sale of personal property; collector to make list of delinquent lands . . . . .	5232j
Delinquent taxes a lien on land . . . . .	5232b	Cities, towns and school districts . . . . .	5232k
Delinquent lands to be listed, etc. . . . .	5232c	Exemptions from this chapter . . . . .	5232l
Delinquent list to be recorded by county clerk . . . . .	5232d	Right of redemption before sale . . . . .	5232m
Delinquent tax record to be published . . . . .	5232e	Redemption after sale . . . . .	5232n
Suits to foreclose tax lien . . . . .	5232f	Notice to non-residents and other proceedings in suits for taxes . . . . .	5232o
Parties, etc.; sale and deed to State . . . . .	5232g	Lands in cities and towns . . . . .	5232p
Sheriff to execute deeds . . . . .	5232h	Proceedings where lands can not be easily identified . . . . .	5232q
Attorney to represent State; fees, etc. . . . .	5232i		

## ART. 5232a. LAND AND IMPROVEMENTS SUBJECT TO TAXATION. (ACTS OF 1897.)

For the purpose of taxation real property shall include all lands within the State, and all buildings and fixtures thereon, and appertaining thereto, except such as are expressly exempted by law.

1. Act of 1895, Chapter 5a (Revised Statutes, 1895, Article 5232a et seq.), which allows interest on taxes, is not retroactive, so as to increase the amount of taxes which became due prior to its passage. *Conklin vs. City of El Paso*, 44 S. W. Rep., 879.

2. A party whose property has been sold for taxes prior to 1895, in redeeming must conform to the requirements of the Act of 1895. *Conklin vs. City of El Paso*, 44 S. W. Rep., 879.

3. Where judgment is rendered foreclosing tax lien, it is proper to make the judgment bear 6 per cent interest. *League vs. State*, 57 S. W. Rep., 34.

## ART. 5232b. DELINQUENT TAXES A LIEN ON LAND. (Ib.)

All lands or lots which have been returned delinquent, or reported sold to the State, or to any city or town for taxes due thereon since the 1st day of January, A. D. 1885, or which may hereafter be returned delinquent or reported sold to the State or to any city or town, shall be subject to the provisions of this chapter, and said taxes shall remain a lien upon the said land, although the owner be unknown or though it be listed in the name of a person not the actual owner, and though the ownership be changed, the land may be sold under the judgment of the court for all taxes, interest, penalty and costs shown to be due by such assessment, for any preceding year.

1. It is the assessment made annually by the officers of the State, under and in accordance with the law, which holds a lien upon the land. *State vs. Farmer*, 94 Texas, 235; 59 S. W. Rep., 542.

2. It is error to enter judgment for the gross sum due against several owners of different tracts without stating what amount of taxes was adjudged to be a lien on each separate tract. *Borden vs. City of Houston*, 62 S. W. Rep., 426.

3. The State can enforce a tax lien on land already bought by it for taxes. *Traylor vs. State*, 46 S. W. Rep., 81.

#### ART. 5232c. DELINQUENT LANDS TO BE LISTED, ETC. (Ib.)

It shall be the duty of the commissioners court of each county in this State immediately upon the taking effect of this chapter to cause to be prepared by the tax collector, at the expense of the county (the compensation for making out the delinquent tax record to be fixed by the commissioners court), a list of all lands, lots, or parts of lots sold to the State for taxes since the 1st day of January, 1885, and which have not been redeemed, in their respective counties, and unorganized counties attached thereto, and to have such lists recorded in books to be called the "Delinquent Tax Record," showing when the lands or lots were reported delinquent or sold to the State for taxes, also the name of the owner at the time of such sale or delinquency, if known, the number of acres, the amount of taxes due when first sold, and the amount of all taxes assessed against the owner thereof and returned delinquent for each year as shown by the records of the tax collector's office; and in making up the list or lists contemplated by this chapter, corrections and omissions in the description of any real estate embraced in such list or lists shall be made, so that when the corrections are made and the omissions supplied, the description will be such as is given in the abstracts of all the titled and patented lands in the State of Texas, or as required in Article 5232l, such as may be furnished by the Commissioner of the General Land Office, and it shall be required in bulk assessments, to apportion to each tract or lot of land separately, its pro rata share of the entire tax, penalty and cost. The list for each county, when certified to by the county judge, and assessment rolls and books on file in the tax collector's office, shall be prima facie evidence that all the requirements of the law have been complied with by the officers charged with any duty thereunder, as to the regularity of listing, assessing, levying of all the taxes therein mentioned, and reporting as delinquent or sold to the State any real estate whatsoever, and that the amount alleged against said real estate is a true and correct charge; and in cases in which the description of the property in said list or assessment rolls or books is not sufficient to properly identify the same, and of which property there is a sufficient description in the inventories in the assessor's office, then said

inventories shall be admissible as evidence of the description of said property. This Delinquent Tax Record for each county shall be delivered to and preserved by the county clerk in his office, and the commissioners court shall cause a duplicate of same to be sent to the Comptroller; provided, that where the records are incomplete in any county, it shall be the duty of the Comptroller to furnish such county with a certified copy of the delinquent list for any year or years.

1. The list referred to in this article is not enough of itself to make a *prima facie* case. *Watkins vs. State*, 61 S. W. Rep., 533.

2. The delinquent list alone which the tax collector has made of lands sold to the State for taxes is not *prima facie* evidence that the requirements of the law have been complied with in regard to assessment, but it is so only when taken in connection with the assessment rolls and other books on file in the tax collector's office. *Rouse vs. State*, 54 S. W. Rep., 32.

#### ART. 5232d. DELINQUENT LIST TO BE RECORDED BY COUNTY CLERK. (Ib.)

On receipt of such Delinquent Tax Record containing a complete list of the lands or lots that have been reported delinquent or sold to the State for taxes for any year or number of years since January 1, 1885, and containing, also, the data and information mentioned in Article 5232e, it shall be the duty of the county clerk of each of the counties of this State, respectively, to certify the same to the commissioners court for examination and correction, and shall thereafter cause the same to be recorded in a book, which book shall be labeled the "Delinquent Tax Record of . . . . . County." The Delinquent Tax Record shall be arranged numerically as to abstract numbers, and shall be accompanied by an index showing the names of delinquents in alphabetical order.

1. A compliance with this article by the county clerk requires him to record in a book the delinquent tax record. The filing of the duplicate of the original list compiled by the collector, after approval by the commissioners court, and labeling it the delinquent tax record is not a compliance with this article. Opinion of Attorney General.

#### ART. 5232e. DELINQUENT TAX RECORD TO BE PUBLISHED. (Ib.)

Upon the completion of said Delinquent Tax Record by any county in this State, it shall be the duty of the commissioners court to cause the same to be published in some newspaper published in the county, for three consecutive weeks; but if no newspaper is published in the county, such list may be published in a newspaper outside of the county to be designated by the commissioners court by contract duly entered into, and a publishers' fee of 25 cents shall be taxed against such tract or

parcel of land so advertised, which fee, when collected, shall be paid into the county treasury, and the commissioners court of said county shall not allow for said publication a greater amount than 25 cents for each tract of land so advertised, and said publication, and any other publications in a newspaper provided for in this act, may be proved by the affidavit of the printer of the newspaper in which the publication was made, his foreman, or principal clerk, annexed to a copy of the publication, specifying the times when and the paper in which the publication was made; provided, that all corrections made in said record, under this article, be noted in the minutes of the commissioners court, and shall be certified by the county clerk to the Comptroller, who shall note the same upon his Delinquent Tax Record; provided, that in the event such Delinquent Tax Record be not published correctly in accordance with the copy furnished such newspaper, then no compensation shall be allowed for such publication.

#### ART. 5232f. SUITS TO FORECLOSE TAX LIEN. (Ib.)

Twenty days after the publication of such notice, or as soon thereafter as practicable, the commissioners court, or the county judge acting for said court, shall file a list of all lands so advertised for taxes due for any year or number of years, the tax on which remains unpaid, with the county clerk of the county in which such lands are located, or if unorganized, then with the county clerk of the county to which said unorganized county may be attached for judicial purposes, and are to be sold under the provisions of this chapter for all the taxes, interest, penalty and costs, and shall cause suit to be filed in the name of the State of Texas, in the district court of said county, or if unorganized, then in the district court of the county to which said unorganized county is attached for judicial purposes, stating therein by apt reference to lists or schedules annexed thereto, a description of all lands or lots in such county upon which taxes and penalty have remained unpaid for any year or number of years since the 1st day of January, 1885, and the total amount of such taxes, with interest computed thereon to the time fixed for the sale thereof at the rate 6 per cent per annum, and shall pray for judgment for the payment of the several amounts so specified therein, and in default thereof, that such lands be sold to satisfy said judgment for all taxes, interest, penalty and costs, and for such other relief to which the State may be entitled under the law and facts. All suits to enforce the collection of taxes, as provided in this chapter, shall take precedence and have priority over all other suits pending in the district court. The petition in such suits shall be signed by the attorney



bringing the suit, and shall be verified by the affidavit of said attorney, or the county judge, to the effect that the averments contained in said petition are true to the best knowledge and belief of affiant, and the pleadings of the defendant, except those of law, shall be verified by like affidavit of the defendant, his agent or attorney. The county collector, county clerk and county assessor shall furnish all affidavits, certified copies of the records of their respective offices, and such other evidence as may be in their possession by virtue of such office, as may be applied for by the county attorney.

1. Taxes due to counties can be collected in a suit in the name of the State alone. *Masterson vs. State*, 42 S. W. Rep., 1003.

2. Statute of limitation can not be pleaded as a bar against the recovery of delinquent taxes. *Abney vs. State*, 47 S. W. Rep., 1043.

3. It is not necessary to allege in the petition the amount of interest and penalties due, as they are fixed by law. *Watkins vs. State*, 61 S. W. Rep., 532.

4. Where twenty-two parcels of land were assessed to unknown owners as separate tracts, and the State brought twenty-two suits to enforce the collection of the taxes, it was not error to refuse to consolidate them. *Watkins vs. State*, 61 S. W. Rep., 532.

5. It is error to render judgment by default upon an amended petition not sworn to, although the original petition was verified. *Cockrell vs. State*, 55 S. W. Rep., 579.

#### ART. 5232g. PARTIES, ETC.; SALE AND DEED TO STATE. (Ib.)

The proper persons shall be made parties defendant in such suits and shall be served with process, and other proceedings had therein as provided by law for suits of like character in the district courts of this State; and in case of foreclosure, an order of sale shall issue, and the land sold thereunder as in other cases of foreclosure; but if the defendant or his attorney shall, at any time before the sale, file with the sheriff, or other officer in whose hands any such order of sale shall be placed, a written request that the property described therein shall be divided and sold in less tracts than the whole, together with a description of such subdivisions, then such officer shall sell the lands in said subdivisions as the defendant may request, and in such case shall only sell as many subdivisions, as near as may be, to satisfy the judgment, interest, penalties and costs, and after the payment of the taxes, interest, penalties and costs adjudged against it, the remainder of the purchase price, if any, shall be paid by the sheriff to the clerk of the court out of which said execution or other final process issued, to be retained by him subject to the order of the court for the period of two years, after which time the court may order the same to be paid to the State Treasurer, who shall hold same in trust to be paid to the owner against whom said taxes were assessed; provided, any one claiming the same shall make proof of his

claim to the satisfaction of the State Treasurer within ten years after the sale of said lands or lots, after which the same shall be governed by the law regulating escheats; provided, that no suit shall be brought to enforce such lien upon any land that a sufficient description to identify the same can not first be had; and provided further, that if there shall be no bidder for such land that the county attorney shall bid said property off to the State for the amount of all taxes, penalties, interest and costs adjudged against said property, and in the absence of the county attorney the sheriff is authorized to bid to the State, when there are no bidders; and it shall be the duty of the district clerk to immediately make report of such sale in duplicate, one to the Comptroller of Public Accounts, and one to the commissioners court, on blanks to be prescribed and furnished by the Comptroller. And in all such cases where the property is bid off to the State, it shall be the duty of the sheriff to make and execute deeds to the State, using forms to be prescribed and furnished by the Comptroller, showing, in each case, the amount of taxes, interest, penalty and costs for which sold, and the clerk's fee for recording deeds as hereinafter provided. He shall cause such deeds to be recorded in the records of deeds, by the county clerk of his county, and when so recorded shall forward the same to the Comptroller; and the county clerk shall be entitled to a fee of one dollar for recording each such deed to the State, to be taxed as other costs. And when lands thus sold to the State shall be redeemed, it shall be the duty of the collector of taxes, when any such redemption is made, to make the proper distribution of the moneys received by him in such redemption, paying to each officer the amount of costs found to be due, and to the State and county the taxes, interest and penalties due each, respectively.

1. A petition by the State to recover taxes assessed against the "unknown owner" of certain described lands, in a suit against the owners, and to foreclose the State's lien thereon, which failed to show that defendants ever owned or claimed any interest in such land, is fatally defective. *State vs. Mantooth*, 49 S. W. Rep., 683.

2. A judgment for taxes against the unknown heirs of a former owner is void as to the owner under grant from the deceased, and who had no notice of the suit. *Green vs. Robertson*, 70 S. W. Rep., 345.

3. A judgment directing sale of several tracts of land to pay taxes in gross does not violate Article 8, Section 15, of the State Constitution, as Article 5232g gives the owner the right to require the sheriff to sell each tract separately. *Masterson vs. State*, 42 S. W. Rep., 1003.

4. In a foreclosure suit for taxes on a homestead the wife is not a necessary party. *Berry vs. City of San Antonio*, 46 S. W. Rep., 273.

5. Where the owner of the land is in actual possession thereof, he can not be deprived of title by a suit for delinquent taxes against an unknown owner. *Hollywood vs. Wellhausen*, 68 S. W. Rep., 329.

## ART. 5232h. SHERIFF TO EXECUTE DEEDS. (Ib.)

In all cases in which lands have been sold, or may be sold, for default in the payment of taxes, it shall be lawful for the sheriff selling the same, or any of his successors in office, to make a deed or deeds to the purchaser or to any other person to whom the purchaser may direct the deed to be made, and any such deed shall be held in any court of law or equity in this State to vest a good and perfect title in the purchaser thereof, subject to be impeached only for actual fraud.

1. Without order of sale sheriff can make no valid sale, and his deed "vests good and perfect title" only when he sells by virtue of an order of sale. *Housels vs. Taylor*, 58 S. W. Rep., 192.

ART. 5232i. ATTORNEY TO REPRESENT STATE; FEES,  
ETC. (Ib.)

The county attorney, or district attorney in counties where there is no county attorney, shall represent the State and county in all suits against delinquent taxpayers that are provided for in this chapter, and all sums collected shall be paid immediately to the county collector.

In no case shall the compensation for said county attorney be greater than three dollars for the first tract in one suit, and one dollar for each additional tract, if more than one tract is embraced in same suit to recover taxes, interest, penalty and costs; provided, that those county attorneys who may have heretofore or may hereafter institute said suits shall be entitled to an equal division with their successor in office of the fees allowed herein on all suits instituted by them, where the judgment has not been obtained prior to the vacation of their office. The collector of taxes, for preparing the delinquent list and separating the property previously sold to the State from that reported to be sold as delinquent for the preceding year, and certifying the same to the commissioners court, shall be entitled to a fee of one dollar for each correct assessment of the land to be sold, said fee to be taxed as costs against the delinquent. The sheriff shall be entitled to a fee of one dollar for selling and making deed thereto to each purchaser of land that he sells under judgment for taxes, which fee shall be taxed as costs of suit, and the district clerk shall be entitled to a fee of one dollar and fifty cents in each case, to be taxed as costs of suit. And the county clerk, for making out and recording the data of each delinquent assessment, and for certifying the same to the commissioners court for correction, and for noting the same in the minutes of the commissioners court, and for certifying the same, with corrections, to the Comptroller, and noting the same on his delin-

quent tax record, shall receive the sum of one dollar, to be taxed as costs against the land in each suit; provided, that in no case shall the State or county be liable for such fees, but in each case they shall be taxed as costs against the land to be sold under judgment for taxes and paid out of the proceeds of sale of same after the taxes, penalty and interest due thereon to the State are paid; provided, that where two or more unimproved city or town lots belonging to the same person and situated in the same city or town shall all be included in the same suit and costs, except those of advertising, which shall be 25 cents for every ten lots, or any number less than ten, taxed against them collectively just as if they were one tract or lot; and, provided further, that where suits have been brought by the State against delinquents to recover tax due by them to the State and county, the said delinquent may pay the amount of the tax, interest, penalties and all accrued costs to the county collector during the pendency of such suit, and the county attorney shall receive as compensation therefor two dollars for the first tract and one dollar for each additional tract embraced in said suit, and the district clerk shall receive only one dollar, and the sheriff only one dollar in each case; but these fees shall be in lieu of the fees provided for such officers where suits are brought as hereinbefore provided.

1. Where property is sold for taxes and bid in by the State, the fees and costs are not to be advanced by the State in the first instance. If the property is redeemed by the owner, unpaid fees and costs are included in the redemption price and held by the State for the collector. *Dean vs. State*, 54 Texas, 313; *Ramsey vs. State*, 78 Texas, 604; 14 S. W. Rep., 793.

2. Upon redemption, the sheriff is only entitled to his costs, not to interest, or double costs and fees. *Ramsey vs. State*, 78 Texas, 604; 14 S. W. Rep., 793.

3. The fees allowed officers under Article 5232i can be charged for each year that the taxes are delinquent. *State vs. Wolfe*, 51 S. W. Rep., 657.

4. If the suit is commenced by one county attorney and his term expires before judgment is rendered, and another is elected his successor, during whose term judgment is rendered, the attorney's fee should be divided equally between them. *Swayne vs. Terrell*, 48 S. W. Rep., 218.

5. In 1897 the taxpayer owned 105 tracts of land, which he rendered to the tax assessor for taxation for 1897 by one rendition, describing the land, etc. The taxes were not paid, and the land was reported delinquent, advertised and suit brought, as provided by the delinquent tax Act of 1897. The county clerk did not record the delinquent list. Held: County attorney's fee, \$107; tax collector's fee, \$105; sheriff's fee, \$1.00; publishing delinquent list, \$26.25; district clerk's fee, \$1.50. County clerk entitled to nothing, because he did not record the list. (Findings of district court of Clay county in cause No. 1415, *State vs. Scott*, April 18, 1899. Affirmed orally by Court of Civil Appeals, Second District, November 11, 1899. Writ of error denied by Supreme Court, January 18, 1900. Case not reported.)

6. In counties where the delinquent tax record has been compiled for years from 1885 to 1896, the fee of \$1.00 for the collector is not chargeable for any year embraced in such record. Opinion of Attorney General.



ART. 5232j. PENALTY FOR FAILURE TO PAY TAXES; SALE  
OF PERSONAL PROPERTY; COLLECTOR TO MAKE  
LIST OF DELINQUENT LANDS. (Ib.)

If any person shall fail or refuse to pay the taxes imposed upon him or his property by law until the 31st day of January next succeeding the return of the assessment rolls of the county to the Comptroller, a penalty of 10 per cent on the entire amount of such taxes shall accrue, which penalty, when collected, shall be paid proportionately to the State and county, and the collector of taxes shall, by virtue of his tax rolls, seize and levy upon and sell so much personal property belonging to such person as may be sufficient to pay his taxes, together with the penalty above provided, interest, and all costs accruing thereon. If no personal property be found for seizure and sale, as above provided, the collector shall, on the 31st day of March of each year for which the State and county taxes, for the preceding year only, remain unpaid, make up a list of the lands and lots on which the taxes for such preceding year are delinquent, charging against the same all taxes and penalties assessed against the owner thereof.

Said list shall be made in triplicate and shall be presented to the commissioners court for examination and corrections of any errors that may appear, and when so examined and corrected by the commissioners court, such lists in triplicate shall be approved by said court, and one copy thereof shall be filed with the county clerk, and one copy retained and preserved by the collector, and one copy forwarded to the Comptroller with his annual settlement reports.

When such list of lands and lots, delinquent for the preceding year only, is corrected, as provided for in this article, then such list shall be immediately advertised, as provided for in Article 5232e, and, after such advertisement, suit shall be instituted against delinquents for all taxes and penalties due, in the district court, as above provided, and such list, as furnished by the tax collector, and corrected by the commissioners court, and the assessment rolls or books on file in the collector's office, or either said list or assessment rolls or books shall be prima facie evidence that all the requirements of the law have been complied with by the officers or courts charged with any duty thereunder as to the regularity of listing, assessing, levying all taxes therein mentioned, and reporting as delinquent any real estate whatsoever, and that the amount alleged against said real estate is a true and correct charge; and in cases in which the description of the real estate in said list or assessment rolls or books is not sufficient to identify the same, and of which property there is sufficient description in the inventories of the assessor's office,



then said inventories shall be admissible as evidence of the description of said property.

In the counties where the Delinquent Tax Record for former years has not been furnished, as provided for in Article 5232c, the collector of taxes shall, also, at the same time, make, in triplicate, a list of all lands and lots that have been previously sold to the State for taxes of former years which have not been redeemed and on which the taxes are delinquent for the preceding year, and shall present the same to the commissioners court for examination and correction of any error that may appear, and when so examined and corrected by the commissioners court, such lists, in triplicate, shall be approved by said court, and one copy thereof shall be filed with the county clerk, one retained and preserved by the collector, and one copy forwarded to the Comptroller, with his annual settlement reports.

1. Under this article taxes are delinquent on February 1st of each year. The provision as to the tax collector on March 31st of each year, making a list of delinquent taxes, has no reference whatever to the time when taxes are delinquent. *Clark vs. Elmendorf*, 78 S. W. Rep., 539.

2. The homestead is not liable for the penalty of 10 per cent provided by this article. *City of Marlin vs. Green*, 78 S. W. Rep., 704.

3. Proceedings can be had to enforce the collection of delinquent taxes even before the Comptroller has prepared the delinquent tax record. *Masterson vs. State*, 42 S. W. Rep., 1003.

4. A sale in gross of different tracts of land for payment of delinquent taxes and penalties is valid under Article 8, Section 15, State Constitution. *Masterson vs. State*, 42 S. W. Rep., 1003.

5. The list referred to in this article is not the one dealt with in Article 5232c. *Watkins vs. State*, 61 S. W. Rep., 533.

#### ART. 5232k. CITIES, TOWNS, AND SCHOOL DISTRICTS. (Ib.)

Any incorporated city or town or school district shall have the right to enforce the collection of delinquent taxes due it under the provisions of this chapter.

#### ART. 5232l. EXEMPTIONS FROM THIS CHAPTER. (Ib.)

Real estate which may have been rendered for taxes and paid under erroneous description given in assessment rolls, or lands that may have been doubly assessed and taxes paid on one assessment, or lands which may have been assessed and taxes paid thereon in a county other than the one in which they are located, or lands which may have been sold to the State and upon which taxes have been paid and through error not credited in the assessment rolls, shall not be deemed subject to the provisions of this chapter.

When called upon, the Commissioner of the General Land Office shall furnish the county judge of any county compiling its own delinquent tax record, officially, with such information as may be necessary to enable him to determine the validity or locality of such surveys and grants as have not been shown by the printed abstracts of the Land Office.

1. The provisions of Chapter 5a, Title 104, do not apply where a person has assessed and paid taxes on his property, but under an erroneous description. *Hollywood vs. Wellhausen*, 68 S. W. Rep., 331.

#### ART. 5232m. RIGHT OF REDEMPTION BEFORE SALE. (Ib.)

Any delinquent taxpayer whose lands have been returned delinquent or reported sold to the State for taxes due thereon, or any one having an interest therein, may redeem the same at any time before his lands are sold under the provisions of this chapter by paying to the collector the taxes due thereon since January 1, 1885, with interest at the rate of 6 per cent per annum and all costs and the penalty of 10 per cent, as provided for in Article 5232j; provided, such penalty has accrued under the provisions and since the passage and taking effect of this chapter.

#### ART. 5232n. REDEMPTION AFTER SALE. (Ib.)

Where lands are sold under the provisions of this chapter, the owner or any one having an interest therein, shall have the right to redeem said land, or his interest therein, within two years from the date of said sale upon the payment of double the amount paid for the land.

1. The owner of land is entitled to possession during the two years allowed for redemption. *Masterson vs. State*, 42 S. W. Rep., 1003; *City of Marlin vs. Green*, 79 S. W. Rep., 40.

2. The mere fact that a tender was made through an agency not known to purchaser to have an interest in the land can not affect the question. The real owner is given the right by statute to redeem, and there is no law which requires him to exhibit his evidence of right at the time of redemption. *Logan's Heirs vs. Logan*, 72 S. W. Rep., 418.

#### ART. 5232o. NOTICE TO NON-RESIDENTS, AND OTHER PROCEEDINGS IN SUITS FOR TAXES. (Ib.)

Wherever the owner or owners of any lands or lots returned delinquent or reported sold to the State, or that may hereafter be reported sold or returned delinquent for the taxes due thereon for any year or number of years, are non-residents of the State, or the name of the owner or owners of said land or lots be unknown, then upon affidavit setting out that the owner or owners are non-residents or that the owner or owners are unknown to the attorney for the State and after inquiry can not be

ascertained, said parties shall be cited and made parties defendant by notice in "The name of the State and county directed to all persons owning or having or claiming any interest in the following described land delinquent to the State of Texas and county of ———, for taxes, towit: (here set out description of the land as contained on the assessment roll and such further description obtainable in the petition), which said land is delinquent for taxes for the following amounts, \$—— for State taxes, and \$—— for county taxes, and you are hereby notified that suit has been brought by the State for the collection of said taxes, and you are commanded to appear and defend such suit at the ——— term of the district court of ——— county, and State of Texas, and show cause why judgment shall not be rendered condemning said land (or lot), and ordering sale and foreclosure thereof for said taxes and costs of suit," which notice shall be signed by the clerk and shall be published in some newspaper published in said county one time a week for three consecutive weeks. If there is no newspaper published in the county then notice may be given by publication in a paper in an adjoining county. A maximum fee of  $2\frac{1}{2}$  cents per line (seven words to count a line) for each insertion may be attached for publishing the citation as above provided for. If the publication of such citation can not be had for the compensation provided for in this article then publication of the citation herein provided may be made by posting a copy at three different places in the county, one of which shall be at the court house door. It shall be lawful in all cases to set forth in the petition the name of all parties interested as far as ascertained, and make them parties, and also to join and make defendants all persons having or claiming any legal or equitable interest in the land described in the petition, and such suit after such publication shall be proceeded with as in other cases, and whether any party or parties make defense or not on the trial of said case the State and county shall be entitled to prove the amount of taxes due and shall have a decree for the sale of said land or lot as in those cases where defendant owners have been personally served and defend suit, and a sale of said land or lot shall be had and be as binding as where defendants were personally served with process. In all suits for taxes due the defendant shall be entitled to credits he can show due him for any year or number of years for which he may be able to produce receipts, but the State shall have judgment and foreclosure of tax lien for any year or years sued for where the defendant can not offer receipt or other positive proof showing the payment of the claim for the taxes.

1. A notice directed to the sheriff or constable, instead of to all persons owning or claiming any interest in the land, etc., is fatally defective. *Earnest vs. Glaser*, 74 S. W. Rep., 606.

2. In suits against unknown owners the citation must be in substantial compliance with Article 5232o, and must state that a foreclosure of the lien is desired. *Netzorg vs. Geren*, 62 S. W. Rep., 789; *Earnest vs. Glaser*, 74 S. W. Rep., 605.

3. The statute gives the form of citation to be issued, and, in passing on the validity of the citation, it alone is to be looked to. *Kenson vs. Gage*, 79 S. W. Rep., 606.

4. The citation must be in compliance with the statute. *Babcock vs. Wolfarth*, 80 S. W. Rep., 642.

5. A judgment by default for delinquent taxes and foreclosure of tax lien against a non-resident cited by publication is not supported unless an attorney ad litem is appointed, and a statement of the evidence approved by the judge is filed as a part of the record. *Garvey vs. State*, 13 T. C. R., 646; 786.

#### ART. 5232p. LANDS IN CITIES AND TOWNS. (Ib.)

In any incorporated city or town in which any lots or blocks of land situated within the corporate limits of said city or town have been returned delinquent or reported sold to said city or town for the taxes due thereon, the city council may prepare lists of delinquents in the same manner as is provided for in Article 5232c, and when such lists shall be certified to as correct by the mayor of said city or town, the city council may direct the city attorney to file suit in the district court of the county in which said city or town is situated, for the recovery of the taxes due on said property together with penalty, interest and costs of suit, which suits may be brought in the same manner as is provided in Article 5232e for the bringing of suits by the county attorney.

#### ART. 5232q. PROCEEDINGS WHERE LANDS CAN NOT BE EASILY DESCRIBED. (Ib.)

In counties in which the subdivisions of surveys are not regularly numbered, and in cities or towns in which the blocks or subdivisions are not numbered, or are so irregularly numbered as to make it difficult or impossible for the assessor to list the same, the commissioners court of such counties may have all the blocks and subdivisions of surveys platted and numbered so as to identify each lot or tract, and to furnish the assessor with maps showing such numbering; and an assessment of any property by such numbering on said maps shall be sufficient description thereof for all purposes, and such maps, or a certified copy of same or any part thereof, shall be admissible as evidence in all courts; provided, that the cost of making said survey and plats shall be defrayed by the county in which said property is situated and of which the said commissioners court ordered the said surveys and plats made; provided, that the cost of any map of a town or city shall be paid by such town or city when ordered by the town or city.

## CHAPTER VB.

### TAXES—PROVIDING FOR THE ASSESSMENT AND COLLECTION OF, IN CERTAIN CASES.

(Chapter 131, Acts Twenty-ninth Legislature, p. 321.)

	Sec.		Sec.
List of lands not assessed to be sent to the assessor.....	1	Board of equalization to pass on assessment . . . . .	4
Assessor to post copy of notice and list . . . . .	2	Supplemental tax rolls to be prepared and taxes collected.....	5
Owner to assess land within twenty days; if he fails, assessor to assess, how . . . . .	3	Officers failing to perform duty; punishment . . . . .	6
		Assessor's fee . . . . .	7

SECTION 1. LIST OF LANDS NOT ASSESSED TO BE SENT TO THE ASSESSOR. (ACTS OF 1905.)—That whenever it shall appear to the Comptroller of Public Accounts of the State from an inspection of the tax rolls of any county of the State, or otherwise, that any lands in such county subject to taxation have not been assessed for taxation for any year since, and including the year 1900, it shall be his duty, and he is hereby required to make a list of such lands and send the same to the tax collector of such county by registered letter, properly addressed, accompanying such list with instructions to such tax assessor to assess such lands for taxes for the years for which they have not been assessed as shown by said list.

SEC. 2. ASSESSOR TO POST COPY OF NOTICE AND LIST.—Upon receipt of such list the tax assessor shall immediately post a copy of such notice and list at the court house door of his county, noting upon such copy the date of such posting; and the owners of the lands embraced in such list shall have the right at any time within twenty days of such posting to render the same to the tax assessor for the taxes for the years for which they have not been assessed for taxes, or for any of such years as shown by such notice, in the same manner as is provided for the rendition of other property for taxes under the provisions of the General Laws for that purpose.

SEC. 3. OWNER TO ASSESS LAND WITHIN TWENTY DAYS; IF HE FAILS, ASSESSOR TO ASSESS, HOW.—Should any of the said lands remain unrendered by the owners or owner thereof, under the provisions of Section 2 of this act, for any of the years for which the same have not been assessed according to said notice and lists, for twenty days after



the date of the posting of such notice, it shall be the duty of the tax assessor, and he is hereby required, immediately upon the expiration of such time, to assess for taxes at their true value such lands so remaining unrendered and unassessed for each of the years since and including the year 1900, and including the year such lists are made up by the Comptroller, listing the same in the name of "Unknown Owners," and charging up to said lands the taxes, State and county, for which they are liable for each of such years, valuing such lands at their true and full value as provided in Article 5088, Revised Civil Statutes. If any of said lands are lands purchased from the State as belonging to the school fund, the university, or any of the asylums of the State, and held under such contract of purchase upon which a part of the purchase money is still due, such lands being unpatented, no deduction shall be made in the value of said lands for, or on account of, such unpaid purchase money, but they shall be valued at their full and true value as though paid out and patented.

SEC. 4. BOARD OF EQUALIZATION TO PASS ON ASSESSMENT.—The tax assessor shall make up lists showing such assessments and deliver the same to the county judge, who shall at once, unless a regular session is held within ten days thereafter, call a meeting of the commissioners court in special session, as a board of equalization for the purpose of passing upon said assessment lists in the manner provided in case of regular assessments in so far as the provisions of the statute with regard thereto are applicable. It shall be the duty of the commissioners court without delay to act upon said supplemental assessment lists as to the value of the property embraced, and when said values have been equalized as required by law, to approve the same, and to approve the rolls made up by the tax assessor in accordance therewith: provided, that the commissioners court shall have no authority to alter said assessment lists, or in any way interfere with such assessments, except as to the values of property embraced therein, in equalizing the same as provided by law, and to strike therefrom any lands that have been already assessed for taxes at their true market value for the years for which they are assessed on said supplemental rolls and such taxes paid.

SEC. 5. SUPPLEMENTAL TAX ROLLS TO BE PREPARED AND TAXES COLLECTED.—After such supplemental assessment lists as are herein provided for have been passed upon by the board of equalization as herein provided, supplemental tax rolls shall be prepared by the tax assessor and approved by the commissioners court as is required by law in case of the regular assessment for taxes, and thereafter the taxes due according to such supplemental rolls shall be collected as in case of other

taxes, and if not paid, such proceedings shall be had for their collection as in case of other taxes.

SEC. 6. OFFICERS FAILING TO PERFORM DUTY; PUNISHMENT, ETC.—If any tax assessor, or the county judge, or any member of the commissioners court shall intentionally or wilfully neglect, fail or refuse to perform any of the acts herein required to be done by such officers, he shall be guilty of a misdemeanor, and on conviction thereof shall be punished by fine of not less than one hundred, nor more than five hundred dollars, or by imprisonment in the county jail for not less than one month nor more than one year; or by both such fine and imprisonment. Such offenses may be prosecuted upon indictment or information in any county of the judicial district to which such county belongs other than the county in which the offense is committed.

SEC. 7. ASSESSOR'S FEE.—For making the supplemental assessments provided herein the tax assessor shall be entitled to the same fees to be paid in the same manner as is provided by law in case of regular assessments. This act is cumulative of all other laws upon the same subject.

## CHAPTER Vc.

### TAXES—PROVIDING FOR THE ASSESSMENT AND COLLECTION OF, IN CERTAIN CASES.

(Chapter 130, Acts Twenty-ninth Legislature, p. 318.)

	Sec.		Sec.
Commissioners court to order list of properties to be made in triplicate, when . . . . .	1	Commissioners court may contract for collection of taxes. . . . .	6
Property to be re-assessed. . . . .	2	Validation of assessment where description defective . . . . .	7
List to constitute lien for taxes. . . . .	3	Delinquent tax record to be published. . . . .	8
Advertisement and suit. . . . .	4		
Commissioners court may correct and reduce, when . . . . .	5		

SECTION 1. COMMISSIONERS COURT TO ORDER LIST OF PROPERTIES TO BE MADE IN TRIPPLICATE, WHEN. — That whenever the commissioners court of any county in this State shall discover, through notice from the tax collector or otherwise, that any real property has been omitted from the tax rolls for any year or years since 1884, or shall find that any previous assessment on any real property for the years mentioned are invalid, or have been declared invalid for any reason by any district court in a suit to enforce the collection of taxes on said properties, they may, at any meeting of the court, order a list of such properties to be made in triplicate and fix a compensation therefor.

The said list to show a complete description of such properties and for what years such properties were omitted from the tax rolls, or for what years the assessments are found to be invalid and should be cancelled and re-assessed, or have been declared invalid and thereby cancelled by any district court in a suit to enforce the collection of taxes; provided, that no re-assessment of any property shall be held against any innocent purchaser of the same, if the tax records of any county fail to show any assessment (for any year so re-assessed) by which said property can be identified and that the taxes are unpaid. The above exception, with the same limitation, shall also apply as to all past judgments of district courts cancelling invalid assessments.

SEC. 2. PROPERTY TO BE RE-ASSESSED.—When said list has been made up in the manner prescribed in Section 1, the commissioners court may, at any meeting, order a cancellation of such properties in said list that are shown to have been previously assessed, but which

assessments are found to be invalid and have not been canceled by any former order of the commissioners court, or by decree of any district court, and shall then refer such list of properties to be assessed or re-assessed to the tax assessor, who shall proceed at once to make an assessment of all said properties, from the data given by said list (the certificate of the State Comptroller as to assessments or re-assessments made by the tax assessor shall not be necessary as required under Article 5120a, Revised Statutes, but he shall furnish all blank forms needed, that uniformity may be had in all counties), and when completed shall submit the same to the commissioners court, who shall pass upon the valuations fixed by him, and when approved as to the values, shall cause the taxes to be computed and extended at the tax rate in effect for each separate year mentioned in said list, and, in addition thereto, shall cause to be added a penalty equal in amount to what would be 6 per cent interest to the date of making said list from the date such properties would have been delinquent had same been properly rendered by the owner thereof at the time and for the years stated in said list; provided, that the certificate of any tax collector of this State, given during his term of office, that all taxes have been paid to the date of such certificate on any certain piece of property, which is fully described in such certificate, or if the tax rolls of any county fail to show any assessments against such property sufficient to identify it and that the same was unpaid at the date such rolls may have been examined to ascertain the condition of any property as to taxes unpaid, this shall be a bar to any re-assessment of such property under this act for any years prior to the date of such certificate or such examinations; provided, that the property referred to, when re-assessed, shall be held by an innocent purchaser, who has relied upon the correctness of such certificate or the tax rolls heretofore referred to.

SEC. 3. LIST TO CONSTITUTE LIEN FOR TAXES.—The said list, when complete in all respects, as directed in the preceding sections, and filed with the tax collector, shall constitute a valid lien against all the properties mentioned in said list for the full amount of taxes, penalties, officers' costs, advertising and 6 per cent interest from the date of said list to the date of the payment of the full sum due on each separate piece of property. A copy of said list and all cancellation orders shall be furnished to the State Comptroller and a copy filed with the county clerk.

SEC. 4. ADVERTISEMENT AND SUIT.—The commissioners court shall proceed to have such list of properties advertised in the manner provided in Article 5232e, Revised Statutes, as amended by Section 5, Chapter 103, Acts of the Regular Session of the Twenty-fifth Legislature, after which suit may be filed in the same manner as provided by law for the enforced collection of delinquent taxes.

SEC. 5. COMMISSIONERS COURT MAY CORRECT AND REDUCE, WHEN.—In all cases of delinquent taxes of unrendered and unknown property where there appears to be an assessment of the same at a valuation excessive and unreasonable, the commissioners court of any county shall be authorized to correct or reduce such values on the request of the tax collector with a full statement of the facts in each case, which statement and the action had thereon and the name of each commissioner voting for or against the reduction in valuation asked for shall be entered upon the minutes of the court and a certified copy of the action had thereon shall be furnished to the Comptroller of the State, and when the values are so corrected or reduced, payment of taxes shall be accepted in accordance with such reduction, to which shall be added interest, penalty, advertising and costs, as provided by law.

SEC. 6. COMMISSIONERS COURT MAY CONTRACT FOR COLLECTION OF TAXES.—If the commissioners court of any county in this State shall deem it expedient to contract with any person to enforce the collection of any delinquent State and county taxes, or to make up a list of properties referred to in this act, and to enforce the collection of taxes thereon for a per cent of the taxes, penalty and interest actually collected and paid to the collector of taxes, the State Comptroller shall be authorized to join in said contract and allow the same per cent for State taxes that is contracted to be paid by the commissioners court for the collection of county taxes, which shall not exceed 10 per cent, except in case of absolute necessity to employ an attorney to push the filing and prosecution of tax suits, and to pay for report of an abstract company as to the owner of property assessed as unknown or unrendered, and as to the holder of any liens against the same, in which case 15 per cent additional may be allowed.

It shall be the duty of the county attorneys of the several counties (or of the district attorney where there is no county attorney) to actively assist the person with whom the contract is made, by filing and pushing to a speedy conclusion all necessary suits for the collection of delinquent taxes under any contract; provided, that where any district or county attorney shall fail or refuse and in good faith to prosecute such suits, he shall not be entitled to any fees from such suits; provided, that where any district or county attorney fails or refuses to bring these suits when requested to do so by the commissioners court or by the person having a contract herein provided for, then the contractor shall be authorized to employ some other attorney to file these suits in the name of the State, in the same manner provided by law now to enforce the collection of delinquent taxes.

SEC. 7. VALIDATION OF ASSESSMENTS WHERE DESCRIPTION DEFECTIVE.—In all suits to enforce the collection of delinquent taxes



where the assessment of any property for any year is invalid by reason of the failure of the assessor to comply with the provisions of law for the description of any lot, block or tract of land, or to give a separate value on each lot, block or tract of land, known as "bulk assessments," or to enter upon the lists (similar to that used for the listing of rendered property, to be signed by the owner) all items of property assessed to unknown owners, all such assessments are hereby validated and given the same force and effect as if the descriptions, the separate valuations, and the listing, were in all respects strictly in compliance with law; provided, as to description, that the descriptions given are sufficient to identify the property; as to separate values, that the valuations and the taxes shown upon the tax rolls (in what are called "bulk assessments") can be fairly prorated to each separate lot, block or tract of land; and as to listing, that the valuation given on the tax rolls upon properties assessed as unknown are found to have been entered upon the assessor's block book as the original assessment, instead of listing as in rendered assessments, and then entering upon the tax rolls.

SEC. 8. DELINQUENT TAX RECORD TO BE PUBLISHED.—The various counties of this State which have not heretofore made and published a delinquent tax record under the provisions of Chapter 103, Acts of the Regular Session of the Twenty-fifth Legislature, are hereby authorized and it shall be their duty to make and publish the same to date hereof, and when so done it shall have the same force and effect as if made and published under that act, and any county which has heretofore made a delinquent tax record for any number of years is hereby authorized and empowered to re-compile the same to date hereof and may compile each year thereafter under the provisions of said act.

## CHAPTER VI.

### OF MUNICIPAL TAXES TO PAY SUBSIDIES IN AID OF RAILROADS AND OTHER INTERNAL IMPROVEMENTS.

Such taxes, how applied.....	Art. 5233	To be paid over every month.....	Art. 5237
To be collected by city officers.....	5234	If insufficient, additional levy to be	
Bond of the officers.....	5235	made . . . . .	5238
Taxes paid, in what.....	5236		

#### ART. 5233. SUCH TAXES, HOW APPLIED. (ACTS OF 1876.)

All taxes levied, assessed and collected for the purpose of paying the interest and principal of bonds heretofore issued by cities or towns to aid in the construction of railroads and other works of internal improvement, shall be applied solely to the objects for which they were levied, under the direction of the Comptroller, as follows: First, to the payment of expenses of assessing and collecting the same; second, to the payment of the annual interest of such bonds, and not less than 2 per cent of the principal; and if there be any excess on hand after making the above payments for the current year, it shall be used in the purchase and cancellation of said bonds.

#### ART. 5234. TO BE COLLECTED BY CITY OFFICERS. (Ib.)

All such taxes shall be assessed and collected by the same officers whose duty it is to assess and collect the other municipal taxes, who shall receive the same rates of commission allowed for assessing and collecting the ad valorem tax of such city. The same remedies shall be used to enforce the assessment, collection and paying over such taxes as are or may hereafter be provided by law to enforce the assessment, collection and paying over of other municipal taxes.

#### ART. 5235. BOND OF THE OFFICER. (Ib.)

The officer whose duty it is to collect the aforesaid taxes shall give bond, with two or more sufficient sureties, to be approved by the mayor and board of aldermen of such city, in a sum 50 per cent greater than the estimated annual amount of said taxes, which bond shall be payable to the State, and shall be conditioned for the faithful assessing, collect-

ing and paying over of said tax into the State treasury, as provided by law, and said assessor shall be amenable and subject to all laws enacted to secure the honest and faithful performance of the duties of collectors of taxes.

ART. 5236. TAXES MAY BE PAID, IN WHAT. (1b.)

It shall be lawful for the collector to receive in payment of the taxes herein specified, current money or the matured coupons of the bonds for the payment of which such tax may have been levied.

ART. 5237. TO BE PAID EVERY MONTH.

The collector of taxes, levied under the provisions of this chapter, shall pay over to the State Treasurer, at the beginning of each and every month, all moneys or coupons he may have collected during the preceding month, deducting his legal commissions on the amount so paid, and shall make a report of his collections to the mayor and city council at its first regular meeting in each month.

ART. 5238. IF INSUFFICIENT, ADDITIONAL LEVY TO BE MADE.

If it shall be ascertained, at any time, that the tax which has been levied for the payment of the city bonds issued under the provisions of law is insufficient to pay the annual interest and 2 per cent annually of the principal of such bonds, besides the expenses of assessing, collecting and paying over such tax, it shall be the duty of the Comptroller to inform the mayor of said city of the fact; and it shall be the duty of the city council, and they shall, upon such information, levy such additional tax, and cause the same to be collected, as will be sufficient to make such payments; which levy shall be continued in force until the whole amount of principal and interest of said bonds shall have been fully paid.

## CHAPTER VII.

### NEW COUNTIES.

	Art.		Art.
When new counties are created.....	5239	Compensation of collector.....	5242
Transcripts of unpaid assessments....	5240	Compensation for transcribing rolls...	5243
To be verified.....	5241		

#### ART. 5239. WHEN NEW COUNTIES ARE CREATED, ETC. (ACTS OF 1885.)

Where any county now or hereafter created out of a part of any one or more organized counties, or when any unorganized county may be organized by the election and qualification of its officers, it shall be the duty of the person in charge of the assessor's roll in the county or counties from which such new county or any part of it has been taken, or to which such unorganized county has been attached for judicial purposes, to allow such person as the commissioners court of the newly organized county may appoint for that purpose, access to the rolls for the purpose of making the transcripts hereinafter provided for.

1. A new county created in whole or in part from another county is liable for the proportionate share of the indebtedness against the county from which it was created. The district court of the county from which the new county is taken may require the commissioners court of the new county to levy a tax to pay off a judgment rendered against the new county for its proportion of such debt. *Mills County vs. Brown County*, 87 Texas, 475; 29 S. W. Rep., 650.

2. A new county created out of an organized county can not recover taxes paid by its inhabitants between the date of the act authorizing its creation and the time it perfected organization. *Reeves County vs. Pecos County*, 69 Texas, 177; 7 S. W. Rep., 54.

#### ART. 5240. TRANSCRIPTS OF UNPAID ASSESSMENTS.

It shall be the duty of the person so appointed to make from such assessor's rolls two transcripts of the unpaid assessments, both on person and property, in that portion of the county included within the limits of the new county, or, as the case may be, in the limits of the former unorganized county.

#### ART. 5241. TO BE VERIFIED.

The collector of the county from which such territory has been taken, or to which such unorganized county has been attached, shall examine and verify the transcripts herein provided for and attest their correct-

ness over his official signature. For such service he shall receive twenty dollars from the county for which the transcript has been made, to be paid on the order of its commissioners court. He shall also have the commissioners court of his county to approve the transcript rolls, and shall deliver one of them to the collector of the new county; the other he shall forward to the Comptroller, and, when received by the Comptroller, it shall authorize him to give the proper credit to the collector of the old county and to charge the same to the collector of the new county.

#### ART. 5242. COMPENSATION OF COLLECTOR.

The collector of such new county shall receive the same compensation, and shall have the same authority to collect and enforce the collection of the taxes found to be due by such transcripts as is enjoyed by the collectors of the other counties in this State.

#### ART. 5243. COMPENSATION FOR TRANSCRIBING ROLLS.

The person selected by the commissioners court of the new county to make such transcripts shall receive for his services such compensation as he may agree on with such commissioners court.



## CHAPTER VIII.

### DISBURSEMENT OF THE DIRECT TAX.

	Art.		Art.
Claims against direct tax; how filed.....	5243a	Comptroller to allow claim and draw	
Comptroller to audit claims.....	5243b	warrant, when . . . . .	5243c
		Fee of county judge.....	5243d

#### ART. 5243a. CLAIMS AGAINST THE DIRECT TAX; HOW FILED. (ACTS OF 1895.)

All claims against the direct tax, penalties, costs and interest refunded to the State of Texas in trust for those from whom the same was collected, or their legal representatives, under the Act of the Fifty-first Congress, approved March 2, 1891, shall be filed under the direction of the Governor, who shall cause a claim register to be kept by the Comptroller of Public Accounts showing the counties in which and by whom the tax was paid, by whom the claim for reimbursement is made, the number of the claim and the date of the filing, the award of the Comptroller, the name of the payee, the number, date and amount of the warrant. All claims now on file with the Comptroller by virtue of previous laws or joint resolutions shall be considered as filed under this chapter, and no refiling thereof shall be necessary, and they shall be acted upon the same as if this chapter had been in force at the date of the filing thereof.

#### ART. 5243b. COMPTROLLER TO AUDIT CLAIMS. (ACTS OF 1893.)

The Comptroller of Public Accounts shall audit and pass upon the claims against the direct tax fund which may be made by those who paid the tax, or their legal representatives.

#### ART. 5243c. COMPTROLLER TO ALLOW CLAIM AND DRAW WARRANT, WHEN.

The Comptroller shall allow such claims and draw his warrant in the name of the claimant, his surviving wife, or his or her legal representative, if any, on the State Treasurer in payment of same when the genuineness thereof has been established in either of the following methods:

First. When satisfactory proof has been made before him that the party applying is entitled thereto; and he is hereby authorized to administer such oaths as he may require in regard to the matter. Second. He shall, as soon as practicable, furnish a list of those who paid the tax and amounts paid to the county judge of each county wherein the tax was paid, to be filed in his office for inspection by those interested. In the manner to be designated by the Comptroller, the county judge shall give notice of the receipt of the list. He shall at any time hear evidence as to the right of those making claim, and if the proof be satisfactory, he shall, under the seal of the county court, deliver to the claimant a certificate stating how the claim was established. In case where neither of the above rules can be applied, the Comptroller may prescribe the rule.

#### ART. 5243d. FEE OF COUNTY JUDGE.

The county judge shall be allowed the sum of 25 cents for each certificate, to be paid by the applicant.

NOTE.—Chapter 169, Acts of the Twenty-fifth Legislature, page 253, is as follows:

SECTION 1. That the unexpended balance in the State treasury on the 2d day of March, 1897, to the credit of the United States direct tax fund, except so much thereof as may be necessary to pay any outstanding warrants against said fund unrepresented on the said 2d day of March, 1897, and also excepting any and all valid claims against said fund, legal proofs of which said claims are on said 2d day of March, 1897, on file in the Comptroller's office, be and the same is hereby transferred to the general revenue account, to be used in payment of current expenses of the State government; provided, that the Comptroller be required to issue his warrant against the direct tax fund for all valid claims for penalty, interest and costs, heretofore filed, or that may have been filed and approved by him on or before March 2, 1897.

SEC. 2. That the Comptroller of Public Accounts shall, on the said 2d day of March, 1897, make such entries on the books of his department as will show the transfer directed in Section 1 of this act, and shall notify the State Treasurer of said transfer.

## CHAPTER IX.

### TAXATION OF INSURANCE, TELEPHONE, SLEEPING AND DINING CAR AND OTHER CORPORATIONS.

	Art.		Art.
Insurance companies taxed; occupation tax, etc. ....	5243e	Franchise tax to be paid by domestic and foreign corporations.....	5243i
Sleeping car companies taxed.....	5243g	On failure to pay franchise tax, charter may be forfeited, how.....	5243j
Capital stock of non-corporators subject . ....	5243h	Corporations exempt; sleeping car companies, etc.; occupation tax.....	5243k

#### ART. 5243e. INSURANCE COMPANIES TAXED; OCCUPATION TAX, ETC. (ACTS OF 1905.)

Every life, fire, fire and marine, marine, marine and inland insurance company, and every life and accident, life and health, accident, credit, title, steam boiler, live stock and casualty company and all other insurance companies doing business in this State, except fidelity and guaranty companies, at the time of filing its annual statement shall report to the Commissioner of Agriculture, Insurance, Statistics and History the gross amount of premiums received in the State, upon property located in this State, and from persons residing in this State during the preceding year, and each of such companies shall pay an annual tax upon such gross premium receipts as follows: Each life insurance company shall pay a tax of  $2\frac{1}{4}$  per cent of such gross premiums; all other companies enumerated above shall pay a tax of  $1\frac{3}{4}$  per cent of such gross premiums; provided, that any company doing a life insurance business in connection with any other class of insurance business enumerated shall pay the same tax upon the gross receipts from life insurance business as is levied against the receipts of a company conducting a purely life insurance business; and the gross premium receipts are understood to be the premium receipts reported to the Commissioner of Agriculture, Insurance, Statistics and History by the insurance companies upon the sworn statement of two principal officers of such companies.

Upon receipt by him of sworn statements showing the gross and net premium receipts by such companies the Commissioner shall certify to the State Treasurer the amount of taxes due by each company, which tax shall be paid to the State Treasurer for the use of the State on or before the 1st day of March following, whose receipt shall be evidence

of the payment of such taxes, and no insurance company shall receive a permit to do business in this State until such taxes are paid.

Provided, that if any such insurance company shall have as much as one-fourth of its entire assets, as shown by said sworn statement, invested in any or all of the following securities: real estate in the State of Texas, bonds of this State or of any county, incorporated city or town of this State, or other property in this State in which by law such companies may invest their funds, then the annual tax of any such company shall be one-half of 1 per cent of its said gross premium receipts; and if any such company shall have invested, as aforesaid, as much as one-half of its said assets, then the annual tax of such company shall be one-fourth of 1 per cent of its said gross premium receipts, as above defined; and provided further, that no occupation tax shall be levied on insurance companies herein subjected to a gross premium receipt tax, by any county, city or town.

The tax aforesaid shall constitute all taxes and license fees collectible under the laws of this State against any such insurance companies, and no occupation or other tax shall be levied on or collected from any insurance company by any county, city or town; but this act shall not be construed to prohibit the levy and collection of State, county and municipal taxes upon the real and personal property of such companies. Provided, that this shall not relieve agents from paying an occupation tax.

(Article 5243f was repealed by the Act of 1905, page 358. Post Chapter 9b, Section 4.)

#### ART. 5243g. SLEEPING CAR COMPANIES TAXED.

Every sleeping car company, palace car company, dining car company doing business in this State, and every company, corporation, person, or association of persons leasing or renting cars to any railway company in this State, shall annually, between the 1st day of January and the 1st day of March, report to the Comptroller of Public Accounts, under oath of the president, treasurer, or some other officer of said corporation, as follows, viz.:

1. The total authorized capital stock.
2. The number of shares issued.
3. The number of shares authorized.
4. The par value of each share.
5. The number of miles of railroad in this State and other States over which its cars are hauled.
6. The number of miles of railroad in this State over which its

cars are hauled, the total amount invested by said company in real estate, manufacturing plants, materials and properties other than sleeping, palace and dining cars and their equipments; and shall pay to the State Treasurer, for the use of the State, a tax of 25 cents on the one hundred dollars of the capital stock of such company employed in this State; and in computing the amount of such capital stock so employed, the same shall be such proportion of the capital stock of such company, after deducting therefrom the amount shown to be invested in real estate, manufacturing plants, materials and properties, other than such sleeping, palace or dining cars and their equipments or properties used in connection with the operation of such cars, as the miles over which it runs cars in this State bear to the whole number of miles in this State and other States over which such cars are run; and in the event of the neglect or refusal of the officers of any such corporation to make the report herein required, the Comptroller of Public Accounts and Attorney General, or either of them, are hereby authorized to make a valuation of the capital stock of such company, and ascertain any other necessary facts from any information in their hands or that they may be able to obtain, and shall calculate the taxes due by such company, and certify to the State Treasurer the amount of taxes due by such company; and each and every such company failing or refusing for more than thirty days after the 1st day of March to make the report required herein and pay the required taxes shall forfeit to the State twenty-five dollars for each day said report and payment are delayed, which forfeiture, together with the taxes due, shall be sued for by the Attorney General in the name of the State. For the purpose of suits provided for in this article, venue and jurisdiction are hereby expressly conferred upon the courts of Travis county, and service may be had upon any officer or agent of such company within this State, and such service shall in all respects be held legal and valid, and no occupation taxes shall be levied upon such companies by any county, city or town. Nothing in this article shall be construed to relinquish the claim of the State to taxes now due under provisions of previous articles.

#### ART. 5243h. CAPITAL STOCK OF NON-CORPORATORS SUBJECT.

Whenever any person or association of persons, not being a corporation, nor having capital stock, shall in this State engage in the business mentioned in Article 5243g, then the capital and property, or the certificates, or other evidences of the rights or interests of the holders thereof, in the business, or capital and property employed therein, shall be deemed



and treated as the capital stock of such person or association of persons for the purpose of taxation in like manner if such person or association of persons were a corporation; and such person or association of persons shall make to the Comptroller of Public Accounts, at the time and in the manner required in Article 5243g, such report as the Comptroller of Public Accounts may require to carry out the provisions of this chapter relating to such person or association of persons; and such persons or association of persons shall be subject to all the penalties provided in Article 5243g for failure to make the required reports and pay the required taxes.

ART. 5243i. FRANCHISE TAX TO BE PAID BY DOMESTIC  
AND FOREIGN CORPORATIONS. (ACTS OF 1905.)

Each and every private domestic corporation heretofore chartered, or that may hereafter be chartered, under the laws of this State shall, on or before the 1st day of May of each year, pay to the Secretary of State the following franchise tax for the year following, to wit: One dollar on each two thousand dollars or fractional part thereof, of the authorized capital stock of the corporation, up to and including one hundred thousand dollars, and one dollar on each ten thousand dollars or fractional part thereof of such stock in excess of one hundred thousand dollars and up to and including one million dollars; and one dollar on each twenty thousand dollars or fractional part thereof of such stock in excess of one million dollars, and up to and including ten million dollars; and one dollar on each fifty thousand dollars or fractional part thereof of such stock in excess of ten million dollars; but such tax shall not be less than ten dollars in any case. And each and every foreign corporation heretofore authorized, or that may hereafter be authorized, to do business in this State, shall, on or before the 1st day of May of each year, pay to the Secretary of State the following franchise tax for the year following, to wit: One dollar on each one thousand dollars or fractional part thereof of the authorized capital stock of the corporation up to and including one hundred thousand dollars; and one dollar on each five thousand dollars or fractional part thereof of such stock in excess of one hundred thousand dollars, and up to and including one million dollars; and one dollar on each twenty thousand dollars, or fractional part thereof of such stock in excess of one million dollars, and up to and including ten million dollars; and one dollar on each fifty thousand dollars of such stock in excess of ten million dollars; but such tax shall not be less than twenty-five dollars in any case. Whenever a corporation is chartered or authorized to do business in this State, it shall pay the propor-

tional part of such annual franchise tax corresponding to the length of time before the next following 1st day of May, and if such tax be not then paid, no such charter shall be filed or permit issued. The franchise tax herein provided for shall be computed upon the basis of the total amount of the capital stock issued and outstanding, plus the surplus and undivided profits of the corporations, instead of upon the authorized capital stock, whenever such total amount is different from the authorized capital stock. Affidavit of the head of the corporation and secretary thereof to these facts may be filed with the Secretary of State, or may be required whenever in his judgment the same is necessary to protect the interests of the State. Any corporation, either domestic or foreign, which shall fail to pay the tax provided for in this article at the time specified herein shall immediately become liable to a penalty of 25 per cent on the amount of the tax due by it, and if the amount of said tax and penalty be not paid in full on or before the 1st day of July thereafter, such corporation shall, for such default, forfeit its right to do business in the State, which forfeiture shall be consummated without judicial ascertainment, by the Secretary of State entering upon the margin of the ledger kept in his office relating to such corporation the word "Forfeited," giving the date of such forfeiture; and any corporation whose right to do business may be thus forfeited shall be denied the right to sue or defend in any of the courts of this State, and in any suit against such corporation on a cause of action arising before such forfeiture, no affirmative relief may be granted to such corporation unless its right to do business is revived, as provided in Article 5243j. All insurance, surety, guaranty and fidelity companies, all transportation companies, and all sleeping, palace and dining car companies now paying an annual income tax on their gross receipts in this State shall be exempted from the franchise tax above imposed.

ART. 5243j. ON FAILURE TO PAY FRANCHISE TAX, CHARTER MAY BE FORFEITED, HOW.

The Secretary of State shall, during the month of May of each year, notify each private domestic and foreign corporation subject to a franchise tax under any law of this State, which has failed to pay such tax on or before the 1st day of May, that unless such defaulted tax, together with the penalty thereon, be paid on or before the 1st day of July following, its right to do business in the State will be forfeited without judicial ascertainment. Such notice may be either written or printed, and shall be mailed to the postoffice named in its articles of incorporation as the principal place of business of such corporation, or to any

other known place of business of such corporation, addressed in its corporate name, and a record of the date of mailing shall be kept by the Secretary of State. Such notice and the said record thereof shall constitute legal and sufficient notice for all the purposes of this act. Any corporation whose right to do business may have been thus forfeited, shall be relieved from such forfeiture by paying to the Secretary of State, at any time within six months after its forfeiture, the full amount of the franchise tax and penalty due by it, together with an additional amount of 5 per cent of such tax (in no case to be less than five dollars) for each month or fractional part of a month which shall elapse after such forfeiture. When such tax and all such penalties are fully paid to the Secretary of State, he shall revive and re-instate the right of the corporation to do business, by canceling the word "Forfeited" from his ledger, and substituting therefor the word "Revived," giving the date of such revival. But nothing in this act shall be construed to repeal any law prescribing fees to be collected by the Secretary of State, provided the provisions of this act shall not apply to corporations having no capital stock organized for the exclusive purpose of promoting the public interest of any city or town.

ART. 5243k. CORPORATIONS EXEMPT; SLEEPING CAR COMPANIES, ETC.; OCCUPATION TAX. (ACTS OF 1897.)

Corporations organized for the purpose of religious worship, or for providing places of burial, not for private profit, or corporations organized for the purpose of holding agricultural fairs and encouraging agricultural pursuits, or for strictly educational purposes, or for purely public charity, are exempted from the tax imposed by this act.

Every sleeping car company, palace car company, dining car company, doing business in this State, and every corporation, person, or association of persons, leasing or renting, owning, controlling or managing any dining or sleeping cars within this State, for the use of the public, and for which use any fare is charged, shall pay a tax of  $2\frac{1}{2}$  per cent of their gross receipts, from all of their passenger travel originating in and ending in this State; this tax to be in addition to that now levied by law; but no occupation tax shall be levied on said companies by any county, city or town. Said tax herein provided for shall be paid to the State Treasurer, quarterly, for the use of the State; and every such company, association, person or corporation so owning, controlling or managing any such dining or sleeping car, shall quarterly report to the Comptroller of the State of Texas, under oath of the president, treasurer, superintendent, or some other officer of said corporation, or some agent

thereof duly authorized, the amount received by them for the transportation of passengers between points in this State. Should any person, association of persons, the officers or agents of any such persons, association of persons, or corporation, herein named, fail to make the report provided in this act for thirty days after the termination of any quarter of the year, then he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than sixty dollars (\$60), nor more than one hundred dollars (\$100); and each day after said thirty days have expired shall be deemed a separate offense; and in addition thereto, in the event of the failure of the officers or agents of any such company or corporation to make such report herein required, and pay said tax, for thirty days after the termination of any quarter of the year, each and every such company or corporation so failing, shall forfeit and pay to the State of Texas twenty-five dollars for each day said report and payment is delayed, which forfeiture shall be sued for by the Attorney General in the name of the State. For the purpose of suits and prosecutions provided for herein, venue and jurisdiction are hereby conferred upon the courts of Travis county.

Nothing in this article shall be construed to repeal or in any way affect the provisions of Article 5243g of the Revised Statutes of the State of Texas.

(That portion of this article which imposes a tax on sleeping car companies, palace car companies and dining car companies was repealed by the Act of 1905, page 358. Post Chapter 9b, Section 2.)

## CHAPTER IXA.

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### FRANCHISE TAX—DEFINING METHOD OF COMPUTATION.

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#### ART. 5243kk. METHOD OF COMPUTATION. (ACTS OF 1905.)

That the annual franchise tax, payable to the State by private domestic corporations heretofore chartered or that may hereafter be chartered under the laws of this State, and foreign corporations heretofore authorized or that may hereafter be authorized to do business in this State, shall be computed upon the basis of the authorized capital stock of the corporation, as stated in its articles of incorporation, or certified copy thereof, unless the aggregate amount of the capital stock issued, plus the surplus and undivided profits of the corporation exceeds the authorized capital stock, in which case the franchise tax shall be computed upon the basis of such aggregate amount. For the purpose of making such computations, the Secretary of State is authorized to require affidavits of the president, secretary, treasurer and other officers of any such corporation to show the amount of its capital stock issued and its surplus and undivided profits, whenever in his judgment the same may be necessary, or he may ascertain such facts from other sources. Should an officer of any corporation subject to the payment of an annual franchise tax, fail or refuse to give under oath full and accurate information of the amount of the capital stock issued by the corporation, or of the amount of its surplus or undivided profits, when required so to do by the Secretary of State, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not more than five hundred dollars.



## CHAPTER IXB.

### TAXES—PROVIDING FOR LEVYING AND COLLECTING TAXES UPON THE GROSS RECEIPTS OF CERTAIN INDIVIDUALS, FIRMS AND CORPORATIONS.

(Chapter 148, Acts Twenty-ninth Legislature, p. 358.)

Sec.	Sec.
Express companies to file report of gross receipts, when; annual tax of two and one-half per cent; penalty for failure to pay tax.....	1
Sleeping car, etc., companies to pay annual tax of four per cent.....	2
Telegraph companies to pay three per cent on gross receipts.....	3
Telephone companies to pay one and one-half per cent on gross receipts....	4
Surety companies to pay two per cent tax .....	5
Collecting or commercial agencies to pay one-half of one per cent tax.....	6
Gas, electric light and waterworks companies to pay one per cent tax.....	7
Dealers in futures to pay one and one-fourth per cent tax.....	8
Dealers in coal oil, etc., to pay two per cent tax .....	9
Text and law book publishers to pay one per cent tax.....	10
Car companies to pay two per cent tax..	11
Pipe line companies to pay two per cent tax .....	12
Oil well companies to pay one per cent tax .....	13
Tax levied herein in addition to all other taxes .....	14
Comptroller may require supplemental report; report to be sworn to, by whom .....	15
Books, etc., of corporations may be inspected, when and by whom.....	16

SECTION 1. EXPRESS COMPANIES TO FILE REPORT OF GROSS RECEIPTS, WHEN; ANNUAL TAX OF TWO AND ONE-HALF PER CENT; PENALTY FOR FAILURE TO PAY TAX. (ACTS OF 1905.)—Each and every express company shall, on or before the 1st day of March, 1906, and annually thereafter, through its superintendent or other chief officer, or authorized agent, file with the Comptroller a report, under oath, showing the amount of gross receipts from charges and freights within this State paid to or uncollected by such company on account of money, goods, merchandise or other character of freight carried within this State during the twelve months next preceding January the 1st of each year. Said express companies, at the time of filing the required report, shall pay to the Treasurer of the State an annual tax equal to  $2\frac{1}{2}$  per cent on their gross receipts, as shown by said report. The receipt of the Treasurer of the State shall be evidence of the payment of such taxes. Should any person, association of persons, the officers or agents of any such person, association of persons, or corporations herein named, fail to make the report provided for in this section for more than sixty days after the termination of any year, then he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty dollars, nor more than one hundred dollars. Each day

after said sixty days have expired shall be deemed a separate offense; and in addition thereto in the event of the failure of the officers or agents of any such company or corporation to make such report, and pay said tax, for sixty days after the termination of any year, each and every such company or corporation so failing shall forfeit and pay to the State of Texas twenty-five dollars for each day said report and payment are delayed, which forfeitures shall be sued for by the Attorney General, in the name of the State. For the purpose of suits and prosecutions provided for herein, venue and jurisdiction are hereby conferred upon the courts of Travis county, and service may be had upon any officer or agent of such company or corporation within this State, and such service shall in all respects be held legal and valid. The tax herein provided for shall be in lieu of all other taxes now levied upon express companies, and not in addition thereto.

## FORM OF REPORT BY EXPRESS COMPANY.

.....190...

*To the Comptroller of the State of Texas:*

In accordance with Section 1, Chapter 148, Acts of the Twenty-ninth Legislature of the State of Texas, approved the 17th day of April, 1905, I have to report that the gross receipts within the State of Texas of the.....  
 .....Express Company for the twelve months ending  
 December 31, 190...., were.....\$.....

Two and one-half per cent on said amount.....\$.....  
 .....  
 .....

THE STATE OF..... }  
 .....County. } .....being duly  
 sworn, states that he is.....of the.....  
 Express Company in Texas, with offices in.....; that  
 the above and foregoing report shows the amount of gross receipts from charges  
 and freights within this State paid to or uncollected by said company on ac-  
 count of money, goods, merchandise or other character or freight carried within  
 this State during the twelve months ending December 31, 190...., and is cor-  
 rectly made up from the books and records of said company.

Sworn to and subscribed before me, this.....day of.....190..  
 .....  
 .....

[SEAL.] .....

1. With the exception of Section 1, the tax imposed by this act must be paid and the reports made beginning on the 1st day of July, 1905. Opinion of Attorney General.

SEC. 2. SLEEPING CAR, ETC., COMPANIES TO PAY ANNUAL TAX OF 4 PER CENT. — Every sleeping car company, palace car company, or dining car company, doing business in this State, and every corporation, person or association of persons leasing or renting, owning, controlling

or managing any palace cars or dining or sleeping cars within this State, for the use of the public, and for which any fare is charged, shall pay an annual tax equal to 4 per cent of their gross receipts earned from any and all sources whatever within this State, except from receipts derived from buffet service. Said taxes herein provided for shall be paid to the State Treasurer quarterly for the use of the State. Every such company, association, person or corporation, so owning, controlling or managing any such dining car, palace car, or sleeping car, shall, on the 1st day of April of each year, and quarterly thereafter, report to the Comptroller, under oath of the president, treasurer, superintendent or some other officer of said corporation, or some agent thereof, duly authorized, the gross amount of receipts earned from any and all sources whatever within this State, except from receipts derived from buffet service, during the preceding quarter. Should any person, association of persons, the officers or agents of any such persons, association of persons, or corporations herein named, fail to make the report provided for in this chapter, for more than thirty days after the termination of any quarter of the year, then he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty dollars nor more than one hundred dollars. Each day after said thirty days have expired shall be deemed a separate offense; and in addition thereto, in the event of the failure of the officers or agents of any such company or corporation to make such report, and pay said tax, for thirty days after the termination of any quarter of the year, each and every such company or corporation so failing shall forfeit and pay to the State of Texas twenty-five dollars for each day said report and payment are delayed, which forfeiture shall be sued for by the Attorney General in the name of the State. For the purpose of suits and prosecutions provided for herein, venue and jurisdiction are hereby conferred upon the courts of Travis county, and service may be had upon any officer or agent of such company or corporation within this State, and such service shall in all respects be held legal and valid. The tax herein provided for shall be in lieu of all other taxes now levied upon sleeping car, palace car, or dining car companies, except the tax of 25 cents on the one hundred dollars of the capital stock of said companies employed in this State, as provided by the Acts of the Twenty-third Legislature, Chapter 102.\*

SEC. 3. TELEGRAPH COMPANIES TO PAY 3 PER CENT ON GROSS RECEIPTS.—Each and every person, association of persons, firm, company or corporation owning, operating, managing or controlling any telegraphic line or lines in this State, for the transmission of telegraphic

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\*See Article 5243g.

messages, and charging for the transmission of said messages, shall pay an annual tax of 3 per cent on their gross receipts from all sources within this State. Said taxes herein levied shall be paid to the State Treasurer quarterly. Every such person, association of persons, firm, company or corporation, so owning, controlling or managing any telegraphic line or lines in this State shall, on or before the 1st day of April of each year, and quarterly thereafter, report to the Comptroller of Public Accounts, under the oath of the president, treasurer, or superintendent of said company, association or corporation, or some officer or agent thereof, duly authorized, the amount received by them in the payment of telegraphic charges, including the amount received on full rate messages and half rate messages and from the lease of any wires, during the preceding quarter. Should any person, association of persons, firm, company or corporation, or the officers or agents of any such person, association of persons, firm, company or corporation herein named, fail to make the report provided for in this article, for thirty days after the termination of any quarter of the year, then he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty dollars, nor more than one hundred dollars. Each day after said thirty days have expired shall be deemed a separate offense. In addition thereto, in the event of the failure of the officer or agent of any such person, company or corporation, to make the report herein required, and pay said taxes for thirty days after the termination of any quarter of the year, each and every such person, company or corporation shall forfeit and pay to the State of Texas twenty-five dollars for each day said report and payment are delayed, which forfeiture and taxes shall be sued for by the Attorney General, in the name of the State. For the purpose of suits and prosecutions provided for in this article, venue and jurisdiction are hereby conferred upon the courts of Travis county, and service may be had upon any officer or agent of such person, firm, company or corporation in this State, and such service shall in all respects be held legal and valid. The tax provided for in this article shall be in addition to all other taxes levied, except the present message tax of 1 cent on each full rate message, and one-half of 1 cent on each half rate message, which is levied by Article 5049, Revised Statutes of 1895, and which is hereby repealed.\*

#### FORM OF REPORT BY TELEGRAPH COMPANY.

.....190...

*To the Comptroller of Public Accounts of the State of Texas:*

In compliance with Section 3, Chapter 148, Acts of the Twenty-ninth Legislature of the State of Texas, approved the 17th day of April, 1905, I have to

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\*See Chapter 9d.

report that the gross receipts of the.....  
Telegraph Company within the State of Texas for the quarter ending.....  
.....190..., were:  
From full rate messages.....\$.  
From half rate messages.....\$.  
From lease of wires.....\$.  
Total . . . . .\$.  
Three per cent on said amount.....\$.  
.....  
.....

THE STATE OF..... {  
.....County. { .....being duly  
sworn, states that he is.....of the.....  
.....Telegraph Company, with  
office in.....; that the above and foregoing statement  
shows the gross amount received by said company in the payment of telegraphic  
charges, including the amount received on full rate messages and half rate  
messages, and from the lease of any wires during the three months ending.....  
.....190..., and is true and correct.  
.....  
.....  
Sworn to and subscribed before me, this.....day of.....190..  
.....  
[SEAL.] .....

SEC. 4. TELEPHONE COMPANIES TO PAY ONE AND ONE-HALF PER CENT ON GROSS RECEIPTS.—Each and every person, association of persons, firm, company or corporation owning, operating, managing or controlling any telephone line or lines and telephones within this State, and charging for the use of the same, shall pay a tax of 1½ per cent upon their gross receipts within this State: provided, that no gross receipt tax shall be levied upon any person, firm, company or corporation owning, managing or controlling any telephone line not operated for toll, revenue or hire. Said taxes herein levied shall be paid to the State Treasurer quarterly. Every such person, association of persons, firm, company or corporation so managing, owning, or controlling any telephone line or lines, and telephones, in this State, shall on the 1st day of April of each year, and quarterly thereafter, report to the Comptroller of Public Accounts, under the oath of the president, treasurer or superintendent of said company, association or corporation, or some officer or agent thereof duly authorized, the amount received by them or it in the payment of charges for the use of its line or lines, telephone and telephones, during the preceding quarter. Should any person, association of persons, firm, company or corporation, or the officers or agents of such person, association of persons, firm, company or corporation herein named, fail to make the report provided for in this article, for thirty days after the termination of any quarter of the year, then he shall be deemed guilty



of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty dollars, nor more than one hundred dollars. Each day after said thirty days have expired shall be deemed a separate offense. In addition thereto, in the event of the failure of the officer or agent of any such person, firm, company or corporation to make the report herein required, and pay said taxes for thirty days after the termination of any quarter of the year, each and every such person, company or corporation shall forfeit and pay to the State of Texas twenty-five dollars for each day said report and payment are delayed, which forfeiture and taxes shall be sued for by the Attorney General, in the name of the State. For the purpose of suits and prosecutions provided for in this article, venue and jurisdiction are hereby conferred upon the courts of Travis county, and service may be had upon any officer or agent of such person, firm, company or corporation in this State, and such service shall in all respects be held legal and valid; provided, that where telephone companies have previously paid the State tax for 1905, of 25 cents on each telephone in use, levied under Article 5243f, of the Revised Statutes of 1895, the amount so fixed in advance of the date when this act takes effect, shall be deducted from the amount shown to be due from the tax of  $1\frac{1}{2}$  per cent on gross receipts imposed by this act. The tax provided for in this article shall be in addition to all other taxes levied by law, except that levied by Articles 5049 and 5243f, of the Revised Civil Statutes of 1895, which are hereby repealed.

FORM OF REPORT BY TELEPHONE COMPANY.

.....190...

*To the Comptroller of Public Accounts of the State of Texas:*

In compliance with Section 4, Chapter 148, Acts of the Twenty-ninth Legislature of the State of Texas, approved the 17th day of April, 1905, I have to report that the gross receipts of the.....  
Telephone Company within the State of Texas for the quarter ending.....  
.....190..., were.....\$.....  
One and one-half per cent on said amount.....\$.....

THE STATE OF.....)  
.....County. { .....being duly  
sworn, states that he is.....of the.....  
Telephone Company, with offices in.....; that the  
above and foregoing statement shows the gross amount received by said company in the payment of charges for the use of its line or lines, telephone and telephones during the quarter ending.....190..., and is true and correct.

Sworn to and subscribed before me, this.....day of.....190..

[SEAL.]

SEC. 5. SURETY COMPANIES TO PAY 2 PER CENT TAX.—Every surety and guaranty company, at the time of filing its annual statement shall report to the Commissioner of Insurance its gross premium receipts in the State during the preceding year, and shall pay an annual tax of 2 per cent on its gross receipts from fees or charges collected. Upon receipt by him of sworn statements showing the gross premium receipts by such companies, the Commissioner shall certify to the State Treasurer the amount of tax due by each company, which tax shall be paid to the State Treasurer on or before the 1st day of March, following, whose receipt shall be evidence of the payment of such taxes. No such company shall receive a permit to continue to do business in this State until such taxes are paid. The tax provided for in this article shall be in addition to all other taxes levied by law.

SEC. 6. COLLECTING OR COMMERCIAL AGENCIES TO PAY ONE-HALF OF ONE PER CENT TAX.—Each and every person, firm, corporation or association of persons owning, operating or controlling any collecting agency or commercial agency in this State, and charging for collections made or business done, shall pay to the State Treasurer an annual tax of one-half of 1 per cent upon their gross receipts for the use and benefit of the State. This tax shall be in addition to all other taxes levied and said taxes shall be paid to the State Treasurer quarterly. Every such person, firm, corporation or association of persons so owning, controlling or managing any commercial agency or collecting agency shall, on or before the 1st day of April, and quarterly thereafter, report to the Comptroller of Public Accounts under oath of the president, treasurer or superintendent of said company, association of persons, person or corporation, or some other officer or agent thereof duly authorized, the amount received by them or it in the payment of charges for collections made and business done for the quarter next preceding. Should any person, association of persons, firm, company or corporation, or the officers or agent thereof, herein named, fail to make the report provided for in this article, for thirty days after the termination of any quarter of the year, then he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty dollars nor more than one hundred dollars. Each day after the said thirty days have expired shall be deemed a separate offense. In addition thereto, in the event of the failure of the officer or agent of any such person, company or corporation to make the report herein required and pay said taxes for thirty days after the termination of any quarter of the year, each and every such person, company or corporation shall forfeit and pay to the State twenty-five dollars for each day said report and payment are delayed, which forfeiture and taxes shall be sued for by the Attorney

General, in the name of the State. For the purpose of suits provided for in this article, venue and jurisdiction are hereby expressly conferred upon the courts of Travis county, and service may be had upon any officer or agent of any such person, company or corporation within this State, and such service shall in all respects be held legal and valid.

FORM OF REPORT BY COLLECTING OR COMMERCIAL AGENCY.

.....190...

*To the Comptroller of Public Accounts of the State of Texas:*

In compliance with Section 6, Chapter 148, Acts of the Twenty-ninth Legislature of the State of Texas, approved the 17th day of April, 1905, I have to report that the gross receipts of.....  
 .....Agency at....., Texas, for  
 the quarter ending.....190..., were.....\$.....  
 One-half of one per cent on said amount.....\$.....

.....  
 .....

THE STATE OF TEXAS, }  
 .....County. } .....being duly  
 sworn, states that he is.....of the.....  
 .....Agency at....., Texas; that  
 the above and foregoing report shows the amount of gross receipts of said company in the payment of charges for collections made and business done for the quarter ending....., 190..., and is true and correct.

.....  
 .....

Sworn to and subscribed before me, this.....day of.....190..

.....  
 .....

[SEAL.]

SEC. 7. GAS, ELECTRIC LIGHT AND WATER WORKS COMPANIES TO PAY 1 PER CENT TAX.—Each and every person, firm, corporation or association of persons owning, operating or controlling any gas, electric light or electric power plant or water works plant in this State, and charging for gas, electric light, electric power or water, shall pay to the State Treasurer an annual tax of one-fourth of 1 per cent upon their gross receipts for the use and benefit of the State. This tax shall be in addition to all other taxes levied, and said taxes shall be paid to the State Treasurer quarterly. Every such person, firm, corporation or association of persons so owning, controlling or managing any gas or electric light plant or electric power plant, or water works plant shall on or before the 1st day of April, and quarterly thereafter, report to the Comptroller of Public Accounts, under oath of the president, treasurer or superintendent of said company, association of persons, person or corporation, or some other officer or agent thereof, duly authorized, the amount received by them or it in the payment of charges for gas or electric lights, or electric power or water, for the quarter next preceding.

Should any person, association of persons, firm, company or corporation, or the officers or agents thereof herein named fail to make the report provided for in this article, for thirty days after the termination of any quarter of the year, then he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty dollars, nor more than one hundred dollars. Each day after said thirty days have expired shall be deemed a separate offense. In addition thereto, in the event of the failure of the officer or agent of any such person, company or corporation to make the report herein required and pay said taxes within thirty days after the termination of any quarter of the year, each and every such person, company or corporation shall forfeit and pay to the State twenty-five dollars for each day said report and payment are delayed, which forfeiture and taxes shall be sued for by the Attorney General, in the name of the State. For the purpose of suits provided for in this article, venue and jurisdiction are hereby expressly conferred upon the courts of Travis county, and service may be had upon any officer or agent of any such person, company or corporation within this State, and such service shall in all respects be held legal and valid.

FORM OF REPORT OF GAS, ELECTRIC LIGHT, ELECTRIC POWER OR WATER WORKS PLANT.

.....190...

*To the Comptroller of Public Accounts of the State of Texas:*

In compliance with Section 7, Chapter 148, Acts of the Twenty-ninth Legislature of the State of Texas, approved the 17th day of April, 1905, I have to report that the gross receipts of the.....

in.....Texas, for the quarter ending.....190..., were:

For gas . . . . .	\$.....
For electric light.....	\$.....
For electric power.....	\$.....
For water . . . . .	\$.....
Total receipts . . . . .	\$.....
One-fourth of one per cent on said amount.....	\$.....
.....	.....
.....	.....

THE STATE OF TEXAS, }

.....County. } .....being duly sworn, states that he is.....; that the above and foregoing statement shows the gross receipts of..... in payment of charges for gas, electric lights, electric power and water in the several amounts stated therein for the quarter ending....., 190..., and is true and correct.

.....

Sworn to and subscribed before me, this.....day of.....190..

.....

[SEAL.] .....

SEC. 8. DEALERS IN FUTURES TO PAY  $1\frac{1}{4}$  PER CENT TAX.—Each and every person, firm, association of persons, corporation, domestic and foreign, who shall directly or indirectly, or as agent for another, or through any agent, or agents, carry on, manage, superintend, or transact any business commonly known as exchanges, or dealing in futures, in any agricultural products, articles of commerce, corporation stocks, or any other article or commodity, or where orders are taken and booked to be accepted and consummated by another where there exists the bona fide intention to deliver, shall, on or before the 1st day of April of each year and quarterly thereafter, file with the Comptroller of Public Accounts a report in writing under oath showing the amount of gross receipts from the management of any such business from all sources for the preceding three months, and shall pay a tax of one and one-quarter ( $1\frac{1}{4}$ ) per cent on their gross receipts from all sources. Said tax herein levied shall be paid to the State Treasurer quarterly, that is to say, on the 1st days of April, July, October and January of each year, provided that this article shall not apply to merchandise brokers and commission merchants. If any such person, or the manager or managers of any such business for any firm, association of persons, or corporation, shall fail to make the report, and pay the tax as above provided for, thirty days after the termination of any quarter of the year, each and every such person, firm, association of persons or corporation, shall, when so failing, forfeit and pay to the State twenty-five dollars (\$25) for each day said report and payment are delayed, which forfeiture and tax shall be sued for by the Attorney General in the name of the State, and venue is hereby given in any court of competent jurisdiction in Travis county. The tax here provided shall be in addition to all other taxes levied by law.

FORM OF REPORT OF DEALERS IN FUTURES.

.....190...

*To the Comptroller of Public Accounts of the State of Texas:*

In compliance with Section 8, Chapter 148, Acts of the Twenty-ninth Legislature of the State of Texas, approved the 17th day of April, 1905, I have to report that the gross receipts of the.....

.....Exchange at....., Texas, for the quarter ending.....190..., were.....\$.....

One and one-fourth per cent on said amount.....\$.....

.....  
.....

THE STATE OF TEXAS, )  
.....County. } .....being duly  
sworn, states that he is.....of the.....  
.....Exchange at....., Texas; that the above



and foregoing statement shows the amount of gross receipts from the management of said business from all sources during the preceding three months ending.....190..., and is true and correct.

Sworn to and subscribed before me, this.....day of.....190..

[SEAL.]

SEC. 9. DEALERS IN COAL OIL, ETC., TO PAY 2 PER CENT TAX.— Each and every person, association of persons or corporation created by the laws of this or any other State or nation, which shall engage in their own name, or in the name of others, or in the name of their representatives or agents, in this State, in the wholesale business of coal oil, naphtha, benzine or any other mineral oils refined from petroleum, and any and all mineral oils, shall pay an annual tax of 2 per cent upon their gross receipts from any and all sales in this State of any of said articles in Section 9 of this act hereinabove mentioned, and an annual tax of 2 per cent of the cash market value of any and all of said articles that may be received or possessed or handled or disposed of in any manner other than by sale in this State; and it is hereby expressly provided that delivery to or possession by any person, association of persons or corporation in this State of any of the articles hereinabove mentioned in Section 9 of this act, from whatever source the same may have been received, shall for the purpose of this act be held and considered such a sale and such ownership and possession of such articles and property (where no sale is made) as will and shall subject the same to the tax herein provided for. Said tax herein provided for shall be paid to the State Treasurer quarterly, and every such person, agent, association of persons, or corporation so owning, controlling or managing such business shall, on or before the 1st day of April, and quarterly thereafter, report to the Comptroller under oath of the president, treasurer, superintendent or some other officer of said corporation or association, or some duly authorized agent thereof, the amount received by them from such business in this State. Should any person, association of persons or corporation, or the officers or agents of any such corporation, person or association of persons herein named, fail to make the report herein provided for, and pay said taxes for thirty days after the termination of any quarter of the year, then he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty nor more than one hundred dollars. Each and every day after said thirty days have expired shall be deemed a separate offense. In addition thereto, in the event of the failure of the officers or agents of any such company or corporation to make the reports and pay said taxes, for

thirty days after the termination of any quarter of the year, each and every such company or corporation or their officers or agents so failing, shall forfeit and pay to the State the sum of twenty-five dollars for each day said report and payment are delayed, which forfeiture and taxes shall be sued for by the Attorney General, in the name of the State. For the purpose of suits and prosecutions provided for in this article, venue and jurisdiction are hereby expressly conferred upon the courts of Travis county, and service may be had upon any officer or agent of such company or corporation in the State, and such service shall in all respects be held legal and valid. The tax herein levied shall be in addition to all other taxes levied by law.

## FORM OF REPORT BY DEALERS IN OIL, ETC.

.....190...

*To the Comptroller of Public Accounts of the State of Texas:*

In compliance with Section 9, Chapter 148, Acts of the Twenty-ninth Legislature of the State of Texas, approved the 17th day of April, 1905, I have to report that the gross receipts of.....

in Texas for the quarter ending.....190..., were:

From the sale of coal oil, naphtha, benzine and any other mineral oils refined from petroleum and from the sale of any and all other mineral oils.....\$.....

The cash market value of any and all of said articles enumerated above that have been received or possessed or handled or disposed of in any manner other than by sale in Texas during said quarter ending.....190..., is.....\$.....

Total .. ..\$.....

Two per cent on said amount.....\$.....

.....

.....

THE STATE OF.....}

.....County. } .....being duly

sworn, states that he is.....at

....., Texas; that the above and foregoing statement

shows the gross receipts of.....

.....from the sale of coal oil, naphtha, benzine and any other mineral oils refined from petroleum and from the sale of all other mineral oils in Texas for the quarter ending....., 190...; also the cash market value of any and all of said articles that have been received or possessed or handled or disposed of in any manner other than by sale in Texas during said quarter, and that said statement is true and correct.

.....

.....

Sworn to and subscribed before me, this.....day of.....190..

.....

[SEAL.] .....

1. Persons engaged in the business of selling oil both by wholesale and by retail; that is, those who will sell a private individual a gallon, or a merchant or other party a barrel, according to the necessities of the occasion, are subject to the tax imposed by this section. Opinion of Attorney General.

2. The tax imposed by Section 13 of this act is a tax upon the occupation of a producer of oil, and the payment of said tax permits the producer of oil to sell his production without the payment of any further tax. Opinion of Attorney General.

SEC. 10. TEXT AND LAW BOOK PUBLISHERS TO PAY 1 PER CENT TAX.—Every person, firm, joint stock association, company, corporation, or association of persons, whether incorporated under the laws of this State or of any other State or nation, or whether incorporated at all or not, engaged in publishing, printing and selling text books used in the schools of this State, or law books of any character, or any such person, firm, joint stock association, company, corporation or association of persons owning, controlling or managing any such business as text book or law book publishers within this State or out of it, and having State agencies in this State for the purpose of selling any book or books to be used in any of the schools of this State, shall pay a tax of 1 per cent on their gross receipts from such business in this State. This tax shall be paid to the State Treasurer quarterly. Every such person, firm, joint stock association, company, corporation or association of persons so owning, controlling or managing any such business as text books or law book publishers, or having State agencies in this State, shall on or before the 1st day of April, and quarterly thereafter, of each year, report to the Comptroller of Public Accounts, under the oath of the person owning or operating said agency, or of the president, treasurer, superintendent or some other responsible officer of such firm, company, joint stock association, or corporation, the amount received by them from such business for and during the preceding quarter of the year. Should any person, association of persons, firm, company or corporation, or the officer or agent thereof herein named, fail to make the report provided for in this article, for thirty days after the termination of any quarter of the year, then he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty dollars nor more than one hundred dollars, and each day after said thirty days have expired shall be deemed a separate offense. And in addition thereto, in the event of the failure of the officer or agent of any such person or corporation to make the report herein required, and pay the said taxes, for thirty days after the termination of any quarter of the year, each and every such person, company or corporation so failing shall forfeit and pay to the State twenty-five dollars for each day said report and payment are delayed, which forfeiture and taxes shall be sued for by the Attorney General in the name of the State. For the purpose of suits and prosecutions provided for in this article, venue and jurisdiction are hereby expressly conferred upon the courts of Travis county, and service may be

had upon any officer or agent of such person, company or corporation within this State, and such service shall in all respects be held legal and valid.

# FORM OF REPORT BY TEXT AND LAW BOOK PUBLISHERS.

.....190...

*To the Comptroller of Public Accounts of the State of Texas:*

In compliance with Section 10, Chapter 148, Acts of the Twenty-ninth Legislature of the State of Texas, approved the 17th day of April, 1905, I have to report that the gross receipts in Texas of.....

from the sale of books for the quarter ending.....190..., were:

From the sale of text-books used in the schools of Texas..\$.....

From the sale of law books.....\$.....

Total . . . . . \$.....

One per cent on said amount.....\$.....

.....  
.....

THE STATE OF..... }  
.....County. } .....being duly  
sworn, states that he is.....at  
.....; that the above and foregoing statement  
shows the gross amount received by.....  
from the sale of text-books used in the schools in Texas and from the sale of  
law books for the quarter ending....., 190..., and is true  
and correct.

.....  
.....

Sworn to and subscribed before me, this.....day of.....190..

[SEAL.]

.....  
.....

SEC. 11. CAR COMPANIES TO PAY 2 PER CENT TAX.—Every person, firm, joint stock association or corporation owning stock cars, refrigerator and fruit cars of any kind, tank cars of any kind, coal cars of any kind, furniture cars, or common box and flat cars, and leasing, renting, operating, hiring or charging mileage for the use of such cars, shall on or before the 1st day of April, and quarterly thereafter, through its superintendent or other chief officer, or authorized agent, file with the Comptroller of Public Accounts a report, under oath, showing the amount of gross receipts from such rentals or mileage, or other sources of revenue, for the preceding three months, and shall pay a tax of 2 per cent on their gross receipts from all rentals or mileage or other sources of revenue received from any railway companies or other persons or from all other sources within this State; provided, this shall not apply to the mileage and per diem paid by one railway company to another railway company within this State for the use of such cars. Said tax herein levied shall be paid to the State Treasurer quarterly. If any

person, firm, joint stock association or corporation shall fail to make the report and pay the tax as above provided, for thirty days after the termination of any quarter of the year, each and every such person, firm, joint stock association or corporation so failing shall forfeit and pay to the State twenty-five dollars for each day said report and payment are delayed, which forfeiture and tax shall be sued for by the Attorney General, in the name of the State. And it is hereby provided that the cars or property of any such person, firm, joint stock association or corporation shall be subject to seizure and sale whenever found in this State, to pay the taxes, penalties and costs that may accrue under this article; provided, that upon the request of the Comptroller each railroad company in the State of Texas shall forthwith and within not more than thirty (30) days after such request shall have been made, report to said Comptroller under oath the amounts paid by it for the use of the cars of the kind mentioned in this section within such period as the Comptroller shall have fixed and to what companies, associations or individuals the same was paid and the amount paid to each and the dates and particulars of such payments, and if any railroad shall fail to make any report as herein provided, it shall forfeit and pay to the State twenty-five dollars (\$25) for each and every day during which said report is delayed, which shall be sued for by the Attorney General in the name of the State. For the purpose of suits provided for herein, venue and jurisdiction are hereby expressly conferred upon the courts of Travis county, and service may be had upon any officer or agent of any such person, firm, company or corporation within this State, and if no officer or agent can be found within this State, service may be had by citation by publication, and such service shall in all respects be held legal and valid. The tax provided for in this article shall be in addition to all other taxes levied by law.

FORM OF REPORT BY CAR COMPANIES.

.....190...

To the Comptroller of Public Accounts of the State of Texas:

In compliance with Section 11, Chapter 148, Acts of the Twenty-ninth Legislature of the State of Texas, approved the 17th day of April, 1905, I have to report that the gross receipts in Texas of.....for the use of  
its cars for the quarter ending....., 190..., were:

From stock cars.....	\$.....
From refrigerator and fruit cars.....	\$.....
From tank cars.....	\$.....
From coal cars.....	\$.....
From furniture cars.....	\$.....
From common box and flat cars.....	\$.....
Total . . . . .	\$.....
Two per cent on said amount.....	\$.....
.....	.....
.....	.....



THE STATE OF..... }  
 .....County. } .....being duly  
 sworn, states that he is.....  
 .....of the.....  
 .....company, with office  
 in.....; that the above and foregoing statement  
 shows the gross receipts of said company for rentals and mileage and other  
 sources of revenue from said cars within the State of Texas for the quarter end-  
 ing....., 190..., and is true and correct.

Sworn to and subscribed before me, this.....day of.....190..

[SEAL]

1. This section does not require the payment of the tax upon receipts for the use of cars for interstate shipments, but does require the payment of such tax as respects receipts upon intrastate shipments. Opinion of Attorney General.

SEC. 12. PIPE LINE COMPANIES TO PAY 2 PER CENT TAX.—Every individual, joint stock association, company, co-partnership or corporation, whether incorporated under the laws of this State or of any other State, Territory, or of the United States, or of any foreign nation, which owns or operates a pipe line or lines within the State of Texas, whether such pipe lines be used for the transmission of oil, natural or artificial gas, whether the same be for illuminating or fuel purposes or for any other purpose, or for steam, for heat or power, or for the transmission of articles by pneumatic or other power, shall be deemed and held to be a pipe line company; and every such pipe line company shall, on or before the 1st day of April of each and every year, and quarterly thereafter, through its superintendent, president, secretary or other authorized agent, file with the Comptroller a report, under oath, showing the amount of gross receipts from charges and freights within this State, paid to or uncollected by such pipe line company on account of any business transacted by it in the capacity of a pipe line company, as herein defined, during the three months next preceding; and each pipe line company engaged in conveying oil shall report as a part of its gross receipts such sum as it would have been compelled to pay for conveying oil owned by it and conveyed for itself, if it had employed some other pipe line company to convey it. Said pipe line companies, at the time of filing the required report, shall pay to the Treasurer of the State of Texas 2 per cent on the gross receipts, as shown by said reports. The receipt of the Treasurer of the State shall be evidence of the payment of such taxes. Should any person, association of persons, the officers or agents of any such person, association of persons or corporation herein named, fail to make the report provided for in this section for more than thirty days after the termination of any quarter of the year, then he shall be deemed guilty of a misdemeanor, and upon conviction shall

be fined in any sum not less than fifty dollars, nor more than one hundred dollars. Each day after said thirty days have expired shall be deemed a separate offense; and in addition thereto, in the event of the failure of the officers or agents of any such company or corporation to make such report and pay said tax for thirty days after the termination of any quarter of the year, each and every such company or corporation so failing shall forfeit and pay to the State of Texas twenty-five dollars for each day said report and payment are delayed, which forfeiture shall be sued for by the Attorney General, in the name of the State. For the purpose of suits and prosecutions provided for herein, venue and jurisdiction are hereby conferred upon the courts of Travis county, and service may be had upon any officer or agent of such company or corporation within this State, and such service shall in all respects be held legal and valid. The tax provided for in this article shall be in addition to all other taxes levied, but the provisions of this section shall be construed to levy an additional tax on gas companies, as provided for elsewhere in this act.

FORM OF REPORT BY PIPE LINE COMPANY.

.....190...  
*To the Comptroller of the State of Texas:*  
In compliance with Section 12, Chapter 148, Acts of the Twenty-ninth Legislature of the State of Texas, approved the 17th day of April, 1905, I have to report that the gross receipts of the.....  
.....for the three months ending....., 190..., were:  
For charges and freight paid to or uncollected by said company on account of business transacted by it in the capacity of a pipe line company . . . . .\$.  
Said company conveyed of its own oil during said three months ....., for which, if some other pipe line company had conveyed it, it would have been compelled to pay.....\$.  
Total . . . . .\$.  
Two per cent on said amount.....\$.  
.....

THE STATE OF TEXAS, }  
.....County. } .....being duly sworn, states that he is.....of the.....company, with office in .....; that the above and foregoing statement shows the gross receipts of said company from charges and freight within the State of Texas paid to or uncollected by said company on account of business transacted by it in the capacity of a pipe line company during the three months ending....., 190...; and shows also the amount of oil of its own conveyed during said three months and the amount it would have been compelled to pay if some other pipe line company had conveyed its oil, and that the said statement is true and correct.

Sworn to and subscribed before me, this.....day of.....190..

[SEAL.]

1. The tax imposed by this section must be paid on shipments between points in Texas not forming any part of an interstate shipment, but that portion of said section which attempts to require the payment of a tax upon the value of the service of a pipe line company performed for itself in the transportation of its own oil has reference alone to corporations chartered as pipe line companies; that is to say, as public carriers for hire, and to persons and copartnerships not incorporated and acting strictly as public carriers, and does not have application to corporations chartered for different purposes, even though they may transport oil for others. Opinion of Attorney General.

SEC. 13. OIL WELL COMPANIES TO PAY 1 PER CENT TAX.—Every individual, joint stock company, co-partnership or corporation, whether incorporated under the laws of this State or any State or Territory of the United States or of any foreign country, which owns, controls, manages or leases any oil well within this State, shall on or before the 1st day of April of each and every year, and quarterly thereafter, through its superintendent, president, secretary or other authorized agent, or in person or by agent (if said well belongs to or is managed or controlled by an individual), file with the Comptroller a report, under oath, showing the total amount of all oil produced by each of said parties, during said next preceding quarter, and also its market value. Said oil well companies or individuals owning, controlling or managing oil wells, at the time of filing the required report, shall pay to the Treasurer of the State of Texas, 1 per cent on the gross products as shown by said reports, said amount in money to be fixed at the average market value of said product during the preceding quarter. The receipt of the Treasurer of the State shall be evidence of the payment of such taxes. Should any person, association of persons, the officers or agents of any such persons, association of persons or corporations herein named, fail to make the report provided for in this chapter, for more than thirty days after the termination of any quarter of the year, then he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty dollars, nor more than one hundred dollars. Each day after said thirty days have expired shall be deemed a separate offense. And in addition thereto, in the event of the failure of the officers or agents of any such company or corporation, to make such report and pay said tax for thirty days after the termination of any quarter of the year, each and every such company or corporation so failing shall forfeit and pay to the State of Texas twenty-five dollars for each day said report and payment are delayed, which forfeiture shall be sued for by the Attorney General, in the name of the State. For the purpose of suits and prosecutions provided for herein, venue and jurisdiction are hereby conferred upon the courts of Travis county, and service may be had upon any officer or agent of such company or corporation within this State, and such service shall in all respects be held legal and valid. The

tax provided for in this article shall be in addition to all other taxes levied.

FORM OF REPORT BY OIL WELL COMPANY.

.....190...

*To the Comptroller of Public Accounts of the State of Texas:*

In compliance with Section 13, Chapter 148, Acts of the Twenty-ninth Legislature of the State of Texas, approved April 17, 1905, I have to report that the total amount of oil produced by.....during the quarter ending..... 190..., was.....barrels, and that the average market value of said product during said quarter was \$..... per barrel.

Total value of product during quarter...\$.....

One per cent on said amount...\$.....

.....  
.....

THE STATE OF TEXAS, }  
.....County. } .....being duly  
sworn, states that he is.....of  
.....  
with office at....., Texas; that the foregoing report  
shows the total amount of oil produced by.....  
during the quarter ending....., 190..., and also the  
average market value of said product during said quarter, and that said statement is true and correct.

.....  
.....

Sworn to and subscribed before me, this.....day of.....190..

.....  
.....

[SEAL.]

1. A lessor of an oil well who receives a royalty on same is liable for the tax imposed by this section upon the amount he receives. The lessee, in such case, is not liable for the tax upon the whole amount of his products, but upon the amount which he receives only. Ruling of Comptroller.

SEC. 14. TAXES LEVIED HEREIN IN ADDITION TO ALL OTHER TAXES.—Except as herein stated, all taxes levied by this act shall be in addition to all other taxes now levied by law: provided, that nothing herein shall be construed as authorizing any county or city to levy an occupation tax on the business taxed by this act.

SEC. 15. COMPTROLLER MAY REQUIRE SUPPLEMENTAL REPORT; REPORT TO BE SWORN TO, BY WHOM.—If for any reason the Comptroller of Public Accounts is not satisfied with any report required to be made herein, he may require a further supplemental report from any such person, corporation, co-partnership or association, containing information and data upon such matters as he may need or deem necessary to ascertain the true and correct amount of all taxes due by any such person, firm or corporation. Every statement or report required by this act

shall have affixed thereto the affidavit of the president, vice president, secretary or treasurer of the person, corporation, co-partnership or association, or one of the persons or members of the partnership making the same, to the effect that the statement is true. The Comptroller shall prepare blanks to be used in making the reports required by this act.

SEC. 16. BOOKS, ETC., OF CORPORATIONS MAY BE INSPECTED, WHEN AND BY WHOM.—If the Comptroller has any reason to believe, or does believe, that any person, firm or corporation subject to the provisions of this act has made any false return, or has failed or omitted to make a full return, then the Comptroller, or some person acting for him, shall file an affidavit with the district clerk of Travis county, or with any district judge of Travis county, in vacation, setting forth his belief that such person, firm or corporation, to be named in the affidavit, has unlawfully omitted from a certain specified tax return, a true and full statement, and that such person, firm or corporation, or some other person, firm or corporation, to be named in the affidavit, has in his or its possession certain specified books or papers containing evidence tending to show such unlawful omission. Upon the filing of such affidavit a writ shall issue forthwith, and be served by any proper officer, requiring the person, firm or corporation having possession of such books or papers to permit the inspection by the Comptroller or by the Revenue Agent of the State of Texas, or so much thereof as may be specially named in such writ, and being only such books and papers or so much thereof as may contain the evidence tending to show the unlawful omission complained of in said affidavit, and the court or the judge thereof in vacation, issuing such writ shall for the purpose of enforcing obedience thereto possess and exercise all the powers usually possessed and exercised by it or him in contempt proceedings. All costs incurred on account of the filing of any affidavit of the issuance of the writ thereon and of the service of such writ, shall be charged against the State of Texas; provided, however, if as a result of such proceedings it is found that such designated person, firm or corporation has unlawfully omitted from the report required herein any statement or statements, then the State shall recover the costs from such person, firm or corporation.



## CHAPTER IXc.

### RAILROADS—PROVIDING FOR THE LEVY, ASSESSMENT AND COLLECTION OF A TAX ON THE GROSS RECEIPTS OF.

(Chapter 141, Acts of the Twenty-ninth Legislature, p. 336.)

	Sec.		Sec.
Annual tax equal to 1 per cent of gross receipts levied on railroads.....	1	Attorney General to bring suit.....	5
Report of gross receipts to be made.....	2	Tax in addition to all other taxes; laws repealed . . . . .	6
Penalty for failure to make report.....	3	Not to be collected, when.....	7
Additional penalty for failure to make report . . . . .	4		

SECTION 1. ANNUAL TAX EQUAL TO 1 PER CENT OF GROSS RECEIPTS LEVIED ON RAILROADS. (ACTS OF 1905.)—Every railroad corporation, or the receiver thereof, and every other person, firm or association of persons, owning, operating, managing or controlling any line of railroad in this State, for the transportation of passengers, freight and baggage, or either, shall pay to the State an annual tax for the year 1905, and for each calendar year thereafter, equal to 1 per centum of its gross receipts, if such line of railroad lies wholly within the State; and if such line of railroad lies partly within and partly without the State, it shall pay a tax equal to such proportion of the said 1 per centum of its gross receipts as the length of the portion of such line within the State bears to the whole length of such line; provided, that if satisfactory evidence is submitted to the Comptroller at any time prior to the date fixed in Section 2 of this act for the payment of the tax herein imposed, that any other proportion more fairly represents the proportion which the gross receipts of any such railroad for any year within this State bears to its total gross receipts, it shall be his duty to levy and collect for such year from such railroad a tax equal to such other proportion of 1 per centum of its total gross receipts.

SEC. 2. REPORT OF GROSS RECEIPTS TO BE MADE.—For the purpose of determining the amount of such tax, the president, vice president, general manager, treasurer or superintendent of such railroad corporation, or the receiver thereof, or such other person, firm or association of persons shall, on or before the 1st day of October, 1905, and annually thereafter, report to the Comptroller of Public Accounts, under oath, the gross receipts of such line of railroad, from every source whatsoever, for the year ending on the 30th day of June last preceding, and shall

immediately pay to the State Treasurer the annual tax herein imposed, calculated on the gross receipts so reported. The Comptroller shall have power to require such other reports and affidavits as may in his judgment be necessary to protect the interests of the State, and he shall estimate such tax on the true gross receipts thereby disclosed, and assess and enforce the collection of such tax.

SEC. 3. PENALTY FOR FAILURE TO MAKE REPORT.—Every person required to make reports by this act, or by the Comptroller of Public Accounts, under the owners herein given, who shall fail or refuse to make such reports, for a longer period than thirty days, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than one hundred nor more than five hundred dollars, and each day of failure or refusal after said thirty days shall constitute a separate offense.

SEC. 4. ADDITIONAL PENALTY FOR FAILURE TO MAKE REPORT.—Should such report not be filed with the Comptroller, and the annual tax thereon estimated paid to the Treasurer on or before the 1st day of October of any year, a penalty of 10 per centum upon the amount of such tax shall accrue thereon and be added thereto; and in case such report is not made or such tax and the penalty thereon are not paid on or before the 1st day of November thereafter, or in case of a failure to furnish the additional report or affidavit required by the Comptroller, for a longer period than thirty days, after demand therefor, or in case of failure to pay within thirty days any tax or additional tax assessed by the Comptroller, under this act, every such railroad corporation, or receiver thereof, or other such person, firm or association of persons shall forfeit and pay to the State the sum of two hundred dollars for each day any of said reports or payments may be delayed, after the expiration of such periods, respectively.

SEC. 5. ATTORNEY GENERAL TO BRING SUIT.—The Attorney General is authorized and required, upon request by the Comptroller, to bring suit in the name of the State, in Travis county, against the proper parties defendant, to recover all taxes, penalties and forfeitures mentioned in this act, and venue and jurisdiction of such suits is hereby expressly conferred upon the courts of Travis county. Service of all process issued in such suits may be had upon any officer or agent of such person, firm, association of persons, corporation, or receiver thereof, within this State, and such service shall in all respects be held legal and valid.

SEC. 6. TAX IN ADDITION TO OTHER TAXES; LAWS REPEALED.—The tax provided for by this act shall be in addition to all other taxes levied by law. Subdivision 36, of Article 5049, Revised Statutes of

1895, and any existing statute imposing a tax upon the gross passenger earnings of railroads, is hereby repealed.

SEC. 7. TAX NOT TO BE COLLECTED, WHEN.—The tax imposed by this act shall not be levied upon or collected from any person, firm, association, corporation, or receiver owning, operating, managing or controlling any line of railroad in this State after such person, firm, association, corporation or receiver shall have paid the tax upon its intangible assets as provided for in an act of the Twenty-ninth Legislature entitled “An Act for the taxation of the intangible assets of certain corporations, and to provide for the creation of a State tax board for the valuation of such intangible assets, and for the distribution of said valuation for local taxation, and for the assessment of said assets, and the levy and collection of taxes thereon,” while the same may be in force and effect.

RAILROAD TAX STATEMENT.

....., 190...  
*To the Comptroller of Texas:*  
Statement by.....  
Railroad Company in accordance with Chapter 141, Acts of the Twenty-ninth Legislature of the State of Texas, for the year ending June 30, 190...  
The length of the line of said railroad within and without the State of Texas is.....miles.  
The length of the portion of said railroad within the State of Texas is.....miles.  
The gross receipts of said line of railroad from all sources whatsoever for the year ending June 30, 190..., were \$.....  
.....  
.....

THE STATE OF..... }  
.....County. } .....being duly  
sworn, states that he is.....of the  
.....  
Railroad Company, with offices in.....;  
that the statement made above shows the entire mileage of said railroad within and without the State of Texas, the number of miles within Texas, the gross receipts of said line of railroad from all sources whatsoever within the time stated therein, and that said statement is true and correct.  
.....  
.....

Sworn to and subscribed before me, this the.....day of....., 190..  
.....  
[SEAL.] .....

[NOTE.—The above statement must be made by either the President, Vice-President, General Manager, Treasurer or Superintendent, or Receiver.]

1. The mere fact that a railroad company is not liable for taxes under the Williams bill (Chapter 148, Acts of the Twenty-ninth Legislature) does not relieve it from liability for taxes, penalties and forfeitures under the Love bill (Chapter 141, Acts of the Twenty-ninth Legislature). In the enactment of those two laws it was the purpose of the Legislature to require every railroad company embraced in said acts, respectively, to pay tax under the one or the other act. In no instance can a railroad which shall not have actually paid its taxes under the Williams bill claim, under it, exemption from liability under the Love bill. Opinion of Attorney General.

## CHAPTER IXD.

## TAXES—PROVIDING FOR TAXING INTANGIBLE ASSETS OF CERTAIN CORPORATIONS.

	Sec.		Sec.
Corporations included in Act.....	1	How true cash value may be determined	7
Statement to be filed, when.....	2	Persons not being a corporation, etc.....	8
Statement to include, what.....	3	State Tax Board to report to county assessors . . . . .	9
Additional statement required, when, and by whom.....	4	Failure to make statement, etc.; penalty . . . . .	10
State Tax Board created; Tax Commissioner; statements to be placed before board . . . . .	5	When property in hands of receiver; who to make statement.....	11
Board to fix values of property; may summon persons to be examined.....	6	Laws imposing tax on gross receipts repealed, when . . . . .	12

SECTION 1. CORPORATIONS INCLUDED IN ACT.—That each and every incorporated railroad company, ferry company, bridge company, turn-pike or toll road company, wharf company, telegraph company, inter-urban railroad company, express company, chair car company, refrigerator car company, stock car company, tank car company, and every other car company except sleeping car, dining car and palace car companies, which are specially excepted from the provisions of this bill, and every packing house company and pipe line company doing business wholly or in part within the State of Texas, whether incorporated under the laws of this State or of any other State, or of any Territory or foreign country, and every other company, corporation or association doing business of the same character in this State, and every individual or association of individuals doing such business shall, in addition to the ad valorem taxes on tangible properties which are now imposed upon them by law, annually, beginning with the 1st day of January, A. D. 1906, pay a tax to the State for the year 1906 and for each year thereafter on their unrendered intangible assets and property, and local taxes thereon to the counties in which its business is or shall hereafter be carried on, which additional tax shall be assessed and levied upon such assets and property in the manner hereinafter provided. The place or places where such local taxes are to be paid, and the manner of the apportionment of the same in cases where more than one jurisdiction is entitled to a share of such tax, shall be determined in accordance with the provisions of this act.

SEC. 2. STATEMENT TO BE FILED, WHEN.—Between the 2d day of January and the 1st day of March of each year, every company, corpora-

tion and association embraced within the provisions of the first section of this act, or coming otherwise within its scope and intent, shall make out and deliver into the possession of the Comptroller of Public Accounts of the State of Texas a statement containing the information hereinafter prescribed, which statement shall be duly verified by the affidavit of one of the officers of the company, corporation or association in whose behalf it is made.

SEC. 3. STATEMENT TO CONTAIN, WHAT.—Each such statement shall show the following items and particulars as the same stood on the next preceding 1st day of January, to wit:

1. The name of the company, corporation or association making the statements, and the character of its business.

2. The authority by which it was incorporated, and the purposes of its incorporation as expressed in its charter or articles of association.

3. The locality of its principal office and the amount and kind of business done by it in this State, and the total gross receipts derived from its business therein, including a due proportion of its interstate business, if it has done any business of that character.

4. Its total capital stock and the number of shares which have been issued and are outstanding, and the par or face value of each such share.

5. The market value of the said shares of stock, or, if they have no market value, then the statement must show the actual value thereof.

6. A brief description of each tract of real estate and of the improvements thereon, and of the buildings, structures, machinery, fixtures, appliances and other tangible property and assets owned and assessed or liable to assessment for the same year within this State, and the location and assessed value thereof, and the county, city or town wherein the same is assessed for taxation for State and county purposes, or is liable to assessment.

7. A brief description of each tract of land and of the improvements thereon, and of the buildings, structures, machinery, fixtures, appliances, and of the other tangible property and assets owned and held outside of this State, and of all other property and assets having a fixed situs outside thereof, and the location of each item of such property, and the purpose for which it is used, and whether or not it is specifically used in the business of the company, corporation or association making the report, and its true and fair market value, and the sum or value at which it is assessed for taxation, and the locality in which it is assessed.

8. A statement of each and every lien, mortgage and other charge upon the whole or any part of the property of said company, corporation



or association, with a statement of the property encumbered or charged thereby and of the amount of unpaid debt secured by each such mortgage, lien or charge, and of the interest charged thereon, and to what extent interest has been paid, and the true and fair market value of every such debt.

9. A statement of the gross and net income and earnings for the next preceeding twelve months, including therein all interest on investments, and all rents, fruits, revenues and receipts from every source whatsoever, and a statement of the income used for repairs and of the amount used for betterments and the amount used for extensions; and each pipe line company shall include as a part of its gross receipts such sum or sums as it would have been compelled to pay out for conveying its own product, if another company had conveyed same for it.

10. Every railroad company and every telegraph company, and every pipe line company shall show in each statement made by it the following particulars, which are in addition to the foregoing requirements, to wit: (a) The total length of all of the lines of said company, whether within or outside of this State, and (b) the total length of so much of said lines as are within this State, and (c) the length of its lines in each of the counties of this State into which its lines extend. The length of the lines of the telegraph companies shall be estimated and stated according to its mileage of poles, conduits and cables, or either.

11. Every refrigerating car company, chair car company, stock car company, tank car company and every other car company, except sleeping car companies, dining car companies and palace car companies, which are especially excepted from the provisions of this bill, and except railroad companies under the control of the Texas Railroad Commission, shall also and in addition to the said foregoing requirements, show by each of its said statements, (a) the total mileage traveled by the cars of said company during the next preceeding twelve months, whether within this State or beyond its borders, and (b) the total mileage traveled by such cars within the State during the same period, and (c) the mileage traveled by such cars within each county in this State during said period.

12. Every express company shall also, in addition to the foregoing requirements having application to such companies, show, (a) its total gross receipts for all business done under its charter, whether within this State or outside of it, during the next preceeding twelve months, and (b) its total gross receipts within this State for the same kind of business done during the same period, including a due proportion of receipts from interstate business, and (c) its total gross receipts in each

county in this State for the same kind of business done during the same period.

SEC. 4. ADDITIONAL STATEMENT REQUIRED, WHEN, AND BY WHOM.—The State Comptroller of Public Accounts shall receive all tax statements offered to him under the provisions hereof, and he shall endorse upon each the date upon which he received it, signing the endorsement officially. He shall examine the statements as soon as may be practicable, and if any of them are insufficient, or if he shall believe other or further information to be necessary, he shall at once demand such additional statements and information as he may think proper.

SEC. 5. STATE TAX BOARD CREATED; TAX COMMISSIONER; STATEMENTS TO BE PLACED BEFORE BOARD.—On the first Monday after the 1st day of March of each year, or as soon thereafter as may be practicable, the said Comptroller shall place all facts and statements, and all information relating thereto which he has received, before a State Tax Board, which is hereby created, and which shall consist of the Comptroller of Public Accounts and the Secretary of State and of a third member, to be known as the Tax Commissioner of the State of Texas, who shall be appointed by the Governor, with the advice and consent of the Senate, subject to the provisions of Section 12 of Article 4 of the State Constitution. The Tax Commissioner shall hold office for two years, and until his successor is appointed and qualified, and shall receive an annual compensation of two thousand five hundred dollars (\$2500), in equal installments, payable at the end of each month.

SEC. 6. BOARD TO FIX VALUE OF PROPERTY; MAY SUMMON PERSONS TO BE EXAMINED.—Said State Tax Board shall carefully examine and consider the said statements and information, and shall hear evidence and secure further and additional information so far as may be in their power, to show the true value of the properties aforesaid, and the true value of that portion of every such property which is situated within this State, and within the respective counties, and each interested company, corporation and association may appear and introduce material and relevant testimony before the said board, touching the true value of its said property within this State, and the apportionment thereof, and the board shall have full power to summon and swear witnesses. From the statements, evidence and information adduced before it, the State Tax Board shall ascertain, fix and determine the true value of each such property, and of the portion thereof which is situated within this State, and the respective values of the several portions within the different counties thereof, in which any such portions are taxable, and for that purpose said board may require and compel any person or persons, or the officers and agents, or any of them, of any com-

pany, corporation or association embraced within the terms of this act, to appear before it with such books, papers, documents and information as the board may require, and to submit themselves to examination by the board.

SEC. 7. HOW TRUE CASH VALUE MAY BE DETERMINED.—In so far as the other evidence and information adduced before them does not make it appear to the members of the said State Tax Board improper or unjust for them to do so, said board shall, in fixing the true cash value of the entire property of any company, corporation or association embraced within the provisions hereof, take as a basis therefor the aggregate market or true value of all its shares of stock, adding thereto the aggregate market or true value of all indebtedness secured by any mortgage, lien or other charge upon its property or assets, and the sum so produced shall be deemed and treated as the true cash value of said entire property. And, in cases where the company, corporation or association does business and has property both within this State and outside of it, in ascertaining the true cash value of its property within this State, said State Tax Board shall next ascertain from the said statements, or otherwise, the market or true value in the locality where the same is situated, of each of the several pieces of real estate situated outside of this State, and of its other properties, if any, outside thereof, and not specifically used in the business of said company, corporation or association, and the aggregate of said values shall be deducted from the gross value of the property as above ascertained, and the result of the said deduction, and the sum or value thereby produced, shall be deemed and treated as the true cash value of all the property of the said company, corporation or association in actual use in its business. The said State Tax Board shall then fix the value of the property within this State, using as a basis and being guided so far as it shall not believe it unjust to do so, by the proportion which it finds to exist between the total lines or total receipts, both within this State and outside of it, and the lines controlled or operated, or the receipts obtained entirely within this State, so that there shall be apportioned to this State, as the true value of the property within its borders of each company, corporation, person and association doing business within and outside of its limits, such a portion of the cash value of all of the property of such company, corporation, individual or association which is specifically used in its business, as is borne by its total lines or total receipts within this State, when compared with the total lines or total receipts both inside and outside of the State of Texas. From the entire value of the property within this State, when ascertained as directed by this act, the said State Tax Board shall deduct the assessed value for taxation of all the property and

assets of said company, corporation or association, as the same is found to be assessed for State and county taxation, in the locality wherein the same is legally taxable, and the residue and remainder of value shall be by the said board fixed and determined as the true value of the unassessed franchises and intangible properties owned and held by said company, corporation or association within this State. The said State Tax Board shall apportion the sum of the said total taxable values within the State, among and between the counties in which such company, corporation or association does business, in proportion to the amount of business done in and the receipts derived from each locality, except that in case of a railroad company, or of a car company, or of a telegraph company, then the apportionment to each county shall be in proportion to the line or car mileage therein; provided, however, that the said Tax Board shall have the right and it is hereby declared to be its duty to make use of all evidence put before it, and of all material facts at its command in valuing and in apportioning the values of the aforesaid properties, and if it shall believe some other method of calculation than that herein specifically prescribed is necessary in order to produce just and lawful results, it shall follow the method which, under all the circumstances, it believes best calculated to bring about a fair and equitable valuation and apportionment of such property.

SEC. 8. PERSONS NOT BEING A CORPORATION, ETC.—Whenever any person or association of persons, not being a corporation, nor having a capital stock, shall engage in this State in any character of business embraced within this act, then the capital and property, or the certificates or other evidences of the rights or interests of the persons engaged in such business shall be deemed and treated as the capital stock of such person or association of persons, for the purposes of taxation, and for all other purposes under this act, and shall be estimated and valued, and the unassessed intangible property values thereof when ascertained shall be apportioned and distributed and assessed and taxed under the provisions hereof in like manner as if such person or association of persons were a corporation, and each such person and association of persons shall, annually, within the time and in the manner herein provided, make the statements and reports and give the information required by this act of the aforesaid companies, corporations and associations, and shall be subject to all penalties herein fixed, and to all the terms and provisions of this act.

SEC. 9. STATE TAX BOARD TO REPORT TO COUNTY ASSESSORS.—The State Tax Board, after having first determined and fixed the true cash value of the unassessed intangible property within the State of Texas of the beforementioned individuals, companies, corporations and associa-



tions, in accordance with the provisions hereof, shall, annually, on or before the 30th day of May of each year, report to the tax assessor of every county in this State in which any of said intangible and unassessed property is taxable under this act, a description of the property taxable therein, and the value thereof apportioned to said county, and the name and residence or place of business of the owner, and all other necessary particulars, and the said property shall thereupon be assessed by the assessor for taxation in like manner as other property, and shall be equalized and taxed, and the taxes collected as in the case of other property. And so long as any corporation, company or association shall pay all ad valorem taxes required by law, the individual stockholders shall not be required to list its shares for taxation, or to pay ad valorem taxes on said shares, nor shall any company, corporation, association, person or persons, complying with the provisions of this act, be required to pay any other State or county ad valorem taxes on any of its intangible assets in Texas.

SEC. 10. FAILURE TO MAKE STATEMENT, ETC.; PENALTY.—Every person and association of persons, and every company, corporation or association, embraced within the provisions of this act, which shall fail to make the returns and statements, or any of them, herein provided, within the time herein limited, or which, after reasonable notice, shall fail to give any additional evidence, or to furnish any additional information required by the said State Tax Board, or by said State Comptroller, by authority hereof, shall forfeit and pay to the State two hundred dollars (\$200) for each and every day during which it shall continue in default, which shall be recovered by suit by the Attorney General of the State of Texas, and the venue of every such suit is hereby fixed within the county of Travis, in said State, and the courts of the said county are hereby vested with jurisdiction of the said causes.

SEC. 11. WHEN PROPERTY IN HANDS OF RECEIVER, WHO TO MAKE STATEMENT.—If the property of any individual, company, corporation or association shall be in the hands of any receiver, assignee, trustee in bankruptcy, or other person holding under any court or for the benefit of any creditor, or creditors, then the statements, reports, information, books and papers aforesaid shall be furnished by said receiver, assignee, trustee or other person, or by some officer or agent acting under him, in the same manner and to the same extent as is hereinbefore provided in cases where the individual or the company or association is in possession.

SEC. 12. LAWS IMPOSING TAX ON GROSS RECEIPTS REPEALED, WHEN.—That upon the taking effect of this act, and upon compliance with its provisions by the individuals, companies, corporations and associations hereby affected, and upon the payment of the taxes imposed



hereunder, if any are imposed, all laws and parts of laws laying taxes upon the gross receipts of said individuals, companies, corporations and associations, shall be and the same are hereby repealed.

1. The Comptroller has no authority to assess for taxation the intangible assets of a railroad company in an unorganized county. Opinion of Attorney General.

2. A street railway company incorporated for transportation of freight is subject to the provisions of the intangible assets act. Opinion of Attorney General.

3. A company incorporated under Subdivision 3a of Article 642 of the Revised Statutes is not a "pipe line company" within the meaning of the "Intangible Assets Tax Law," and is not required to make a report under it. Opinion of Attorney General.

4. A company incorporated for the purpose of establishing and maintaining a lumber company, etc., with the right to purchase, lease, erect and operate all necessary mills, planing mills, dry kilns, tram roads and all other necessary incidents to such business, and which does own and operate a tram railroad is not a railroad or car company. It is a lumber company, and the intangible assets act does not operate upon such companies. Opinion of Attorney General.

5. The mere fact that a railroad company is not liable for taxes under the Williams bill (Chapter 148, Acts of the Twenty-ninth Legislature) does not relieve it from liability for taxes, penalties and forfeitures under the Love bill (Chapter 141, Acts of the Twenty-ninth Legislature). In the enactment of those two laws it was the purpose of the Legislature to require every railroad company embraced in said acts, respectively, to pay tax under the one or the other act. In no instance can a railroad which shall not have actually paid its taxes under the Williams bill claim, under it, exemption from liability under the Love bill. Opinion of Attorney General.

## CHAPTER X.

### GENERAL PROVISIONS.

	Art.		Art.
Tax to pay for land deeded to State.....	5243l	Same credited to general county fund.....	5243o
Payment to grantors of such lands.....	5243m	Time extended for redemption of land	
Repayment to counties of subsidy funds.....	5243n	sold to State, etc., for taxes.....	5243p

#### ART. 5243l. TAX TO BE PAID FOR LAND DEEDED TO STATE. (ACTS OF 1893.)

The commissioners court of any county in the State of Texas is hereby authorized and empowered to one time levy a tax not exceeding 8 cents on the one hundred dollars ad valorem tax on all property subject to taxation in said county or counties, to pay for any lands deeded to the State of Texas heretofore or that may hereafter be deeded to the State of Texas for public purposes on which to erect public buildings by the State, and to be used by the State as State institutions for the insane.

#### ART. 5243m. PAYMENT TO GRANTORS OF SUCH LANDS. (Ib.)

When any county commissioners court, at any regular session thereof, shall hear and determine the justness of any such claim or claims for lands heretofore or that may hereafter be deeded to the State as sites for public institutions of the State, and the amount, at a fair valuation of such lands so deeded, such county commissioners court is hereby authorized and empowered to levy a tax for such purpose, not exceeding 8 cents on the one hundred dollars worth of taxable property in such county or counties, to be levied and collected as other taxes are, which, when collected, shall be paid over to the party or parties deeding the land or lands to the State, upon vouchers duly made out and audited, as other claims are.

#### ART. 5243n. REPAYMENT TO COUNTIES OF EXCESS OF SUBSIDY FUNDS. (Ib.)

Whenever it shall appear to the State Treasurer that any money paid into the State treasury by any county of this State for the liquidation of subsidy bonds issued by such county, remains to the credit of such

county after all of said subsidy bonds and interest have been paid, said State Treasurer shall pay to the treasurer of such county such remaining sum, and the treasurer of such county shall receipt therefor.

ART. 5243o. SUCH FUND TO GO TO CREDIT OF GENERAL COUNTY FUND. (1b.)

The county treasurer of such county shall place such sum of money to the credit of the general fund of such county.

ART. 5243p. TIME FOR REDEMPTION OF LAND SOLD AT TAX SALE TO STATE, ETC., EXTENDED. (1b.)

All lands which have been heretofore sold for taxes and bought in by the State or by cities and towns, and which have not been redeemed, may be redeemed by the owner thereof, or his agent or legal representative, if within twelve months from the date on which this law takes effect said owner or agent or legal representative, when he desires to redeem land from the State, shall pay to the State the original State and county taxes for which said lands were sold, and all costs, together with 6 per cent interest thereon and the taxes due each year since such sale, or from the day of the accrual of such subsequent taxes, as the case may be, under such rules and regulations as shall be prescribed by the Comptroller of the State; and when he desires to redeem lands sold to any city or town, said owner, agent or representative shall pay to such city or town the original city or town tax for which said lands were sold, and all costs, together with 6 per cent interest thereon and the taxes due each year since said sale, or from the day of accrual of such taxes, as the case may be; provided, that the proportion of the redemption money due the county shall be remitted to the treasurer of the proper county by the Comptroller.\*

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\*See Articles 5187a and 5198a.

## APPENDIX.

### ASSESSMENT AND COLLECTION OF TAXES BY CITIES AND TOWNS UNDER THE PROVISIONS OF TITLE 18, REVISED STATUTES OF 1895.

#### TAXATION.

[Articles are numbered as they appear in Revised Statutes.]

	Art.		Art.
Ad valorem tax.....	484	Same subject .....	492
May levy tax for public buildings, etc.....	485	Power of city council to provide for as-	
May levy tax, issue bonds, etc.....	486	sessing, etc., taxes.....	493
Tax of $2\frac{1}{4}$ per cent may be levied by city		Collection of license tax, etc.....	494
of more than 10,000 inhabitants.....	487	Real estate includes what.....	495
No debt shall be created unless provision		Personal estate includes what.....	496
be made to pay the same.....	488	City council may provide for the exemp-	
Poll tax.....	489	tion of property from taxation.....	497
Occupation tax.....	490	Taxes for payment of indebtedness.....	498
Occupations that are subject to taxation	491		

#### ART. 484. AD VALOREM TAX. (ACTS OF 1895.)

The city council shall have power within the city, by ordinance, to annually levy and collect taxes, not exceeding one-fourth of 1 per cent on the assessed value of all real and personal estate and property in the city not exempt from taxation by the Constitution and laws of the State.

#### ART. 485. TO LEVY AND COLLECT TAX AND ISSUE BONDS FOR IMPROVEMENTS, BUILDINGS, ETC. (ACTS OF 1885.)

The city or town council or board of aldermen of any incorporated city or town within the limits of this State shall have power, by ordinance, to levy and collect an annual ad valorem tax of not exceeding 25 cents on the one hundred dollars valuation of taxable property within such city or town for the erection, construction or purchase of public buildings, streets, sewers and other permanent improvements within the limits of such city or town. Within the meaning of this article shall be included building sites and buildings for public free

schools and institutions of learning within those cities and towns which have assumed or which may hereafter assume the exclusive control and management of the public free schools and institutions of learning within their limits.

ART. 486. LEVY TAX AND ISSUE BONDS FOR PUBLIC IMPROVEMENTS. (ACTS OF 1891.)

The city or town council of any city or town in this State incorporated under the general laws shall have the power by ordinance to levy and collect an annual ad valorem tax sufficient to meet the interest and sinking fund on all indebtedness legally incurred prior to the adoption of the constitutional amendment in 1883, regarding the power of cities and towns to levy and collect taxes, etc., and may levy and collect 25 cents on the one hundred dollars valuation of all property in such city or town for current expenses, and may levy and collect an additional 25 cents on the one hundred dollars valuation, for the purpose of construction or the purchase of public buildings, waterworks, sewers, street improvements and other permanent improvements within the limits of such city or town, and all cities and towns providing for such improvements shall have the power to issue coupon bonds of the city therefor in such sum or sums as they may deem expedient, to bear interest not exceeding 6 per cent per annum; provided, that the aggregate amount of bonds issued for the above named purposes shall never reach an amount where the tax of one-fourth of 1 per cent will not pay current interest and provide a sinking fund sufficient to pay the principal at maturity, and the amount of bonds legally issued under acts passed prior to the adoption of the present Constitution shall not be computed and estimated in the amount of bonds which may be issued for the above named city improvements. Within the meaning of this article shall be included building sites and buildings for the public free schools and institutions of learning, within those which have assumed or may assume hereafter the exclusive control and management of the public free schools and institutions of learning within their limits, and shall also have power to levy by ordinance a tax not exceeding 15 cents on the one hundred dollars for the improvement of the roads, bridges and streets of such town or city within its limits as provided by the amendment of 1883, to the Constitution of this State.



ART. 487. CITIES OF 10,000 INHABITANTS AND OVER TO  
LEVY AND COLLECT TAX; VALIDATING ACT.  
(ACTS OF 1889.)

Cities having more than ten thousand inhabitants may levy, assess and collect taxes not exceeding  $1\frac{1}{2}$  per cent on the assessed value of real and personal estate and property in the city, not exempt from taxation by the Constitution and laws of the State, and assessments, levy and collection of taxes made by such cities for the year 1889 are hereby made valid to the amount aforesaid, and such cities are hereby authorized to levy, assess and collect a further tax of 25 cents on the one hundred dollars worth of property for the purpose of paying the debts of such city lawfully contracted prior to the 1st day of January, 1889, not to include any bonded debt. And funding warrants that may be issued for such debt by any such city shall not be included in the limit of 6 per cent prescribed by Article 466; provided, that this article shall not apply to or in any manner affect any city organized under a special charter, and shall not be construed to validate any debt contracted by any city without authority of law existing at the time the same was contracted.

ART. 488. DEBT SHALL NOT BE CREATED UNLESS PRO-  
VISION BE MADE TO PAY THE SAME. (ACTS OF 1875.)

No debt shall ever be created by any city unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon, and create a sinking fund of at least 2 per cent thereon.

ART. 489. POLL TAX. (ACTS OF 1875.)

The city council shall have power to levy and collect an annual poll tax, not to exceed one dollar, of every male inhabitant of said city over the age of twenty-one years (idiots and lunatics excepted), who is a resident thereof at the time of such annual assessment.

ART. 490. OCCUPATION TAX. (Ib.)

The city council shall have power to levy and collect taxes, commonly known as licenses, upon trades, professions, callings and other business carried on; and upon carriages, hacks, coaches, buggies, drays, carts, wagons, and other vehicles used in said city, when the same are for public use; and each and every person and firm engaging in the follow-

ing trades, professions, callings and business, among others, shall be liable to pay such license tax; but this enumeration shall not be construed to deprive the city council of the right and power to levy and collect other license taxes, and from other persons and firms, under the general authority herein granted.

ART. 491. OCCUPATIONS THAT ARE SUBJECT TO TAXATION. (Ib.)

Every person and firm engaged in selling goods, wares and merchandise; every person and firm selling liquor in quantities over a quart; every person and firm keeping a grog shop, tippling place, barroom or drinking saloon; every person or firm keeping a place where spirituous liquors, wines, cordials or beer are sold in quantities less than one quart; every person or firm keeping a billiard table, ball alley, or nine or ten-pin alley, or any similar game; every person or firm keeping a tavern or hotel, or boarding house; every person or firm keeping a restaurant, eating house, oyster shop, oyster saloon, or place of any description where eating or refreshments are furnished; every person or firm keeping a livery stable, sale stable, feed or other kind of stable; every person or firm selling goods, wares and merchandise at public auction; every person or firm pursuing the occupation of real estate broker or agent, merchandise or cotton broker, or commission business; every person or firm pursuing the occupation of hawker or peddler of goods or any article whatever; every person or firm keeping a brewery, beer shop or distillery, or fruit stand; every person or firm keeping a storage or a warehouse, or engaging in compressing cotton, keeping an intelligence office; each and every insurance company shall also be liable to pay said city such license tax, and each and every insurance agent in said city shall likewise be subject to said license tax, and such agent shall be held responsible therefor, and for each association, corporation or company of which he is agent.

ART. 492. SAME SUBJECT. (Ib.)

Each and every firm keeping a lumber, wood or coal yard, or any place for sale of the articles aforesaid, or building material, shall be subject to said license tax, and all other persons from whom the city council may require said tax, under the authority in this title granted; provided, nothing herein contained shall in any wise prevent or restrain the city council from collecting the license, and each license tax hereinbefore provided for by this title; each establishment shall be liable to

said license tax; and any person or firm pursuing occupations, business, avocations or callings subject to said tax shall pay on each, and no license shall extend to more than one establishment, or include more than one occupation, avocation, business or calling.

ART. 493. POWER OF CITY COUNCIL TO PROVIDE FOR  
ASSESSING, ETC., TAXES. (Ib.)

The city council shall have power to provide by ordinance for the assessing and collecting of the taxes aforesaid, and to determine when taxes shall be paid by corporations, and when by the individual corporators; provided, no tax shall be levied unless by consent of two-thirds of the aldermen elected.

ART. 494. COLLECTION OF LICENSE TAX, ETC. (Ib.)

The license tax shall be collected by the assessor and collector, and shall be paid to that officer by each and every person and firm owing such license and before engaging in any trade, profession, business, calling, avocation or occupation subject to said tax; and if any person shall engage in any business, calling, avocation or occupation which by an ordinance of the said city is subject to a license tax, without first having obtained said license, he, she or they shall, on conviction before the mayor or recorder's court, be liable to imprisonment or a fine of \$10.00, or both imprisonment and such fine, for each day such violation of said ordinance may continue; and this article shall apply to all persons owing any license and failing to pay the same; provided, that the city council may collect said license tax by suit in any court having jurisdiction, under such rules and regulations as they may provide by ordinance; said taxes, commonly known as licenses, laid as herein provided, shall not be construed to be a tax on property within the meaning of Article 89, or any other article of this title.

ART. 495. REAL ESTATE INCLUDES WHAT. (Ib.)

The term real estate or property, as used in this title, shall be construed to include lots, lands and all buildings or machinery and structures of every kind erected upon and affixed to the same.

ART. 496. PERSONAL ESTATE INCLUDES WHAT. (Ib.)

The term personal estate or property, as used in this title, shall be construed to include all household furniture, money, goods, capital.

chattels, public stocks and stocks of corporations, moneyed or otherwise, and generally all property which is not real.

ART. 497. CITY COUNCIL MAY PROVIDE FOR THE EX-  
EMPTION OF PROPERTY FROM TAXATION, ETC. (1b.)

The city council may, by ordinance, provide for the exemption from taxation of such property as they may deem just and proper; provided, nothing contained in this chapter on taxation shall be construed to prevent the city council from imposing, levying and collecting special taxes and assessments for the improvement of the avenues, streets and alleys, as hereinafter provided.

ART. 498. TAXES FOR PAYMENT OF INDEBTEDNESS.

The city council may also levy, assess and collect taxes necessary to pay the interest and provide a sinking fund to satisfy any indebtedness heretofore legally made and undertaken; but all such taxes shall be assessed and collected separately from those levied, assessed and collected for current expenses of municipal government, and shall, when levied, specify in the act of levying the purpose therefor, and such taxes may be paid in the coupons, bonds or other indebtedness for the payment of which such tax may have been levied.

## COLLECTION OF TAXES.

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Power of city council to provide for collection of taxes.....	499	Action of board final.....	513
Power of city council to regulate tax lists, assessment of taxes, etc.....	500	Compensation of board and secretary.....	514
Duty of taxpayers to render inventory of property, etc.....	501	Oath of members.....	515
Board of appraisement shall be appointed	502	Duty of assessor and collector in regard to collection of taxes.....	516
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Board of equalization, how constituted..	505	Assessor and collector shall make deed to purchaser of property sold for taxes; effect of deed, right of redemption, etc.	518
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Shall equalize value of lots.....	508	Property of infant, etc., may be redeemed, when.....	521
Lists of unrendered property to be examined.....	509	Taxes, etc., collectible in current money only.....	522
Notice to taxpayer, how given.....	510		
Valuation lowered, when.....	511		
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## ART. 499. POWER OF CITY COUNCIL TO PROVIDE FOR COLLECTION OF TAXES. (ACTS OF 1875.)

The city council may and shall have full power to provide by ordinance for the prompt collection of all taxes assessed, levied and imposed under this title, and due or becoming due to said city, and are hereby authorized, and to that end may and shall have full power and authority to sell or cause to be sold real as well as personal property, and may and shall make all such rules and regulations, and ordain and pass all ordinances as they may deem necessary to the levying, laying, imposing, assessing and collecting of any of the taxes herein provided.

## ART. 500. POWER OF CITY COUNCIL TO REGULATE TAX LISTS, ASSESSMENT OF TAXES, ETC. (Ib.)

The city council shall have power by ordinance to regulate the manner and mode of making out tax lists or inventories and appraisements of property therein, and to prescribe the oath that shall be administered to each person on such rendition of property, and to prescribe how and when property shall thus be rendered, and to prescribe the number and form of assessment rolls, and fix the duties and define the powers of the assessor and collector, and adopt such measures as they may deem advisable to secure the assessment of all property within the limits of said city, and collect the tax thereupon; and may by ordinance provide that any person, firm or corporation having property subject to taxation



or being liable for any tax under the provisions of this title, and neglecting to render a list, inventory and appraisalment thereof, as required by ordinance of said city, shall be liable to fine and imprisonment.

ART. 501. DUTY OF TAXPAYER TO RENDER INVENTORY OF PROPERTY. (Ib.)

Every person, partnership and corporation owning property within the limits of the corporation shall, within two months after published notice, hand in to the assessor and collector of the city a full and complete inventory of the property possessed or controlled by him, her or them within said limits not exempt from taxation, on the 1st day of January of the current year, verified as required by ordinance; and any person failing or refusing to comply with the provisions of this article shall be liable to fine and imprisonment, and the city council shall, by ordinance, clearly define the duties of taxpayers herein, and make all necessary rules and regulations to secure the rendition of property and the collection of taxes due thereon.

ART. 502. DUTY OF ASSESSOR AND COLLECTOR TO MAKE LISTS OF PROPERTY, ETC. (Ib.)

It shall be the duty of the assessor and collector to make out a list of all personal property which has not been given in for assessment according to the provisions of this title, and assess the same in the name of the owner, if he be known; if not, then it shall be assessed by description of the property and as unknown owner, and the value of such property shall be determined by the board of equalization, and the same may be sold as in other cases, if the tax be not paid in the time prescribed by law.

ART. 503. UNRENDERED PROPERTY SHALL BE ASCERTAINED, ETC., BY THE ASSESSOR. (Ib.)

It shall be the duty of the assessor and collector, at the expiration of the time fixed by ordinance for the rendition of property, to ascertain such property in the city subject to taxation as has not been rendered, and the same shall be by him presented to the board of equalization for valuation by said board, and the same shall be by him entered in a supplement to the assessment roll as unknown, specifying the year for which said tax is not paid within the time prescribed by law; said property shall be sold at the same time and with like effect as other property.

## ART. 504. ASSESSMENTS FOR BACK TAXES. (Ib.)

Whenever the assessor and collector shall ascertain that any taxable property, real or personal, has not been assessed for the past year, he shall assess the same in a supplement to his next assessment roll, at the same rate under which such property should have been assessed for such year, stating the year for which such property should have been assessed, and the taxes thereon shall be collected in the same manner as other assessments. In all cases where any party has omitted to render property for taxation for any former year or years, and such taxes have not been paid, such party shall give such property in for assessment for the years thus omitted and pay such taxes, and the assessor and collector shall enter all such property in a supplement to his next assessment roll, under the head of payments for former years.

## ART. 505. APPOINTMENT AND DUTIES OF BOARD OF EQUALIZATION. (ACTS OF 1887.)

The city councils of the several cities and towns of this State incorporated under the general laws shall annually, at their first meeting, or as soon thereafter as practicable, appoint three commissioners, each being a qualified voter, a resident and property owner of the city or town for which he is appointed, who shall be styled the board of equalization, and at the same meeting said council shall by ordinance fix the time for the meeting of such board of equalization.

## ART. 506. ANNUAL MEETINGS OF SAID BOARD. (Ib.)

The board of equalization shall convene annually, at the time fixed by the city council, to receive all the assessment lists or books of the assessor of their city, for examination, correction, equalization, appraisal, and approval, and at all meetings of said board the city secretary shall act as secretary thereof.

## ART. 507. SHALL VALUE PROPERTY. (Ib.)

The board of equalization shall cause the assessor to bring before them, at the time fixed for the convening of said board, all the assessment lists or books of the assessor of their city, for their examination, that they may see if each and every person has rendered his property at a fair market value, and said board shall have power to send for persons and papers, to swear and qualify persons who testify, to ascertain the value of such property; and if they are satisfied it is too high, they

shall lower it to its proper value; and if too low, they shall raise the value of such property to a proper figure. Said board shall also have power to correct any errors that may appear on the assessor's lists or books.

ART. 508. VALUES TO BE EQUALIZED BY BOARD. (Ib.)

The board of equalization shall equalize as near as possible the value of all the improved lots within the corporate limits of their city, having reference to the size and location of said lots and the improvements thereon, and shall equalize the value of unimproved lots as near as possible, having reference to the size and location thereof, and all other property of the same kind shall be made as nearly equal as possible. Any person may file with said board at any time before the final action of said board a complaint as to the assessment of his or any other person's property, and said board shall hear said complaint, and said complainant shall have the right to have witnesses summoned in sustaining said complaint as to the insurance on said property, or the rents and profits it may bring the holder thereof.

ART. 509. UNRENDERED PROPERTY LISTS TO BE EXAMINED BY BOARD. (Ib.)

The city assessor at the same time that he delivers to said board his lists and books, as provided in Article 507, shall also furnish to said board a certified list of the names of all persons who either refuse to swear or qualify or to sign the oath or affirmation as required by law, together with a list of the property of such persons situated within the corporate limits of their city, as made by him through other information, and said board shall examine said lists and appraise the property so listed by the assessor.

ART. 510. NOTICE TO PROPERTY OWNERS. (Ib.)

In all cases where the board of equalization shall find it their duty to raise the value of any property appearing on the lists or books of the assessor, they shall, after having fully examined such lists or books and corrected all errors appearing therein, adjourn to a day not less than ten nor more than fifteen days from the date of adjournment, such day to be fixed in the order of adjournment, and shall cause the secretary of said board to give written notice to the owner of such property or to the person rendering the same of the time to which said board may have adjourned, and that such owner or person rendering the said property

may at that time appear and show cause why the value of said property should not be raised, which notice may be served by depositing the same, properly addressed and postage paid, in the city postoffice.

ART. 511. BOARD TO LOWER VALUES, WHEN. (Ib.)

The board of equalization shall meet at the time specified in said order of adjournment, and shall hear all persons the value of whose property has been raised, and if said board is satisfied they have raised the value of such property too high, they shall lower the same to its proper value.

ART. 512. APPROVAL OF LISTS AND ROLLS BY BOARD. (Ib.)

The board of equalization, after they have finally examined and equalized the value of all property on the assessor's lists or books, shall approve said lists or books and return them together with the lists mentioned in Article 509, that he may make up therefrom his general rolls as required by law; and when said general rolls are so made up the board shall meet again to examine said rolls and approve the same if found correct.

ART. 513. ACTION OF BOARD FINAL. (Ib.)

The action of said board at the meeting provided for in Article 511 shall be final, and shall not be subject to revision by said board or by any other tribunal thereafter.

ART. 514. COMPENSATION OF BOARD. (Ib.)

The members of the board of equalization and the city secretary, while acting as secretary of said board, shall receive such compensation for their services, to be allowed by the city council, as said council may deem just and reasonable.

ART. 515. OATH TO BE TAKEN.

Before said board shall enter upon their duties they shall be sworn, by any officer authorized by law to administer oaths, to faithfully and impartially discharge all duties incumbent upon them by law as such board.

ART. 516. DUTY OF ASSESSOR AND COLLECTOR IN REGARD TO COLLECTION OF TAXES. (ACTS OF 1875.)

The assessor and collector, after the completion of the assessment roll, as required by ordinance, shall proceed to collect the taxes therein mentioned within the time, and give such notice as may be prescribed by the city council, and for that purpose shall call once upon every person taxed, or on the agent or attorney of such person at the usual place of his or her residence, office, place of business, or elsewhere, and demand the payment of the tax charged upon his or her person or property, if the person is to be found, and if not, then a written demand, specifying the amount of taxes due, left at the residence with some adult member of the family, shall be a sufficient demand; provided, that if any person thus owing taxes has no residence, office, or place of business, and no agent in the city or known to the assessor and collector, then the said demand shall not be necessary, and the ordinary published notice required by ordinance shall be sufficient.

ART. 517. PROPERTY OF TAXPAYER SHALL BE LEVIED ON AND SOLD FOR TAXES, WHEN. (Ib.)

If any person shall fail, neglect or refuse to pay the taxes imposed on him and his property, within the time prescribed by the ordinances of said city, the assessor and collector shall, by virtue of his tax list and assessment roll, levy upon so much property liable to taxation belonging to such person as may be sufficient to pay his taxes, and the assessor and collector shall give notice of the time and place of sale by advertisement in writing (if not unknown property), the property and amount of taxes, costs and fees due thereupon; such notice shall be published in some newspaper published in said city, and at the expiration of such notice, and on the day therein specified, the assessor and collector shall proceed to sell such property at public auction, in front of the court house door of the city, or such building as may be used for such purpose; provided, that when real estate is offered for sale the smallest portion of grounds (to be taken from the east side of the premises) shall be sold for which any person will take the same and pay the taxes, costs and fees.\*

ART. 517a. REDEMPTION OF LAND SOLD FOR TAXES.

All lands sold under and by virtue of decree and judgment of court for taxes due any incorporated city or town within this State may be

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\*See Article 5232k.



redeemed by the owner or owners thereof within two years from the date of deed upon the payment to the purchaser, or his assigns, of double the amount so paid, including costs of court; provided, that purchaser at such foreclosure sale, and his assigns, shall not be entitled to the possession of the property sold for taxes until the expiration of two years from the date of deed.

ART. 518. ASSESSOR AND COLLECTOR SHALL MAKE DEED  
TO PURCHASER TO PROPERTY SOLD FOR TAXES;  
EFFECT OF DEED, RIGHT OF REDEMPTION, ETC. (Ib.)

The assessor and collector shall, when any property has been sold for the payment of taxes, make, execute and deliver a deed for said property to the person purchasing the same, and such deed shall be prima facie evidence in all controversies and suits in relation to the right of the purchaser, his heirs and assigns, to the premises thereby conveyed, of the following facts:

First—That the land or lot or portions thereof conveyed was subject to taxation or assessment at the time the same was advertised for sale, and had been listed or assessed in the time or manner required by law.

Second—That the taxes or assessment were not paid at any time before the sale.

Third—That the land, lot, or portion thereof conveyed, had not been redeemed from the sale at the date of the deed, and shall be conclusive evidence of the following facts:

1. That the land, lot or portion thereof sold was advertised for sale in the manner and for the length of time required by law.

2. That the property was sold for taxes or assessments as stated in the deed.

3. That the grantee in the deed was the purchaser.

4. That the sale was conducted in the manner prescribed by law.

And in all controversies and suits involving the title to land claimed and held under and by virtue of such deed, the person claiming title adverse to the title conveyed by such deed shall be required to prove, in order to defeat said title, either that the land was not subject to taxation at the date of the sale, that the taxes or assessment had been paid, that the land had never been listed or assessed for taxation and assessment as required by this title or some ordinance of the city, or that the same had been redeemed according to the provisions of this title, and that such redemption was made for the use and benefit of the person

having the right of redemption under the law; but no person shall be permitted to question the title acquired by the said deed without first showing that he, or the person under whom he claims title, had title to the land at the time of the sale, or that the title was obtained after the sale, and that all taxes due upon the lands have been paid by such person or the person under whom he claims title as aforesaid; provided, however, that the owner of such property shall have the right to redeem the same at any time within two years of the day and date of the sale thereof, upon paying to the purchaser double the amount of taxes for which the same was sold, together with the costs of such sale and double the amount of all taxes paid by the purchaser since such sale. The assessor and collector shall have full power to levy upon any personal property to satisfy any tax imposed by this title; all taxes shall be a lien upon the property upon which they are assessed, and in case any property levied upon is about to be removed out of the city, the assessor and collector shall proceed to take into his possession so much thereof as will pay the taxes assessed and costs of collection.\*

ART. 519. SALE MAY TAKE PLACE AT ANOTHER TIME  
THAN THAT FIRST ADVERTISED, WHEN, AND  
MAY BE CONTINUED FROM DAY  
TO DAY. (Ib.)

If from any cause the sale of property levied upon or seized for taxes shall not take place at the time first appointed, the assessor and collector shall appoint some other time, give like notice, and proceed to sell such property in the manner prescribed in the first instance; and in case said property levied upon or seized for taxes can not be sold on the day advertised, such sale may be postponed from day to day until completed, of which postponement the assessor and collector shall give verbal notice at the expiration of sale each day.

ART. 520. PROPERTY SHALL BE STRUCK OFF TO CITY,  
WHEN. (Ib.)

If at any sale of real or personal property or estate for taxes no bid shall be made for any parcel of land or any goods and chattels, the same shall be struck off to the city, and thereupon the city shall receive, in the corporate name, a deed for said property, and shall be vested with the same right as other purchasers at such sale, and shall have power to sell and convey the same.†

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\*See Article 5232k.

†See Articles 5232k and 5232h.

ART. 521. PROPERTY OF INFANT, ETC., MAY BE RE-  
DEEMED, WHEN. (Ib.)

If the real estate of an infant, feme covert or lunatic be sold under this title, the same may be redeemed at any time within one year after such disability be removed.

ART. 522. TAXES, ETC., COLLECTIBLE IN CURRENT MONEY  
ONLY. (Ib.)

Taxes levied to defray the current expenses of the city government, and all license and occupation taxes levied, and all fines, forfeitures, penalties and other dues accruing to cities, shall be collectible only in current money.

## ASSESSMENT AND COLLECTION OF SCHOOL DISTRICT TAXES.

(Chapter 124, Acts of Twenty-ninth Legislature.)

[Sections numbered as they appear in act.]

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Annual levy and collection of school tax		Powers and duties of assessor and col-	
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SEC. 11. ANNUAL SCHOOL TAX.—There shall be levied and collected an annual ad valorem State school tax of 18 cents on the one hundred dollars of the cash value thereof, estimated in lawful currency of the United States, on all real property situated and on all personal property owned in the State on the 1st day of January of each year, and all personal property sent out of the State for the purpose of avoiding the payment of taxes thereon and afterwards returned to the State, except so much thereof as may be exempted by the Constitution and laws of this State or the United States, which cash value shall be estimated in the manner prescribed by law.

SEC. 57. HOW LEVY OF SPECIAL TAX MAY BE MADE.—The commissioners court of the several counties of this State shall have power to levy a special tax for the further maintenance of public free schools and the erection within each school district of school buildings therein; provided, two-thirds of the qualified property taxpaying voters of the district voting at an election to be held for the purpose, shall vote such tax, not to exceed in any year 20 cents on the one hundred dollars valuation of the property subject to taxation in such district; provided, that all property assessed for school purposes shall be assessed at the rate of value of property as said property is assessed for State and county purposes; provided, that in all assessments of property for taxing purposes under this bill, all property shall be assessed at the valuation fixed for said property for State and county purposes.

SEC. 58. LEVY OF TAX TO BUILD SCHOOLHOUSES.—Whenever twenty or more qualified property taxpaying voters of any district wish, for the purpose of taxing themselves for the building of schoolhouses or

supplementing the State school fund apportioned to said district, and shall make application to the county commissioners court, duly signed by them, said court shall enter up an order for an election to be held in said district to determine whether such tax shall be levied or not; said application shall designate the amount of tax asked to be levied, and the order of said court shall state:

1. When said election shall be held.
2. At what point or points the polls shall be opened.
3. The amount of tax to be voted on; provided, that no election shall be held to determine the levy of a tax exceeding 20 cents on the one hundred dollars valuation of property. The commissioners court shall order the sheriff to give notice of such election by posting three notices in the district for three weeks before the election, and the sheriff shall obey such order. Not more than one such election shall be held in the same scholastic year.

SEC. 66. LEVY AND ASSESSMENT OF SCHOOL TAX.—The county commissioners court shall, at the time of levying the tax for county purposes, also levy upon such school district the amount of taxes said district has voted upon itself, and it shall be the duty of the tax assessor to assess the same as other taxes, and to make an abstract showing the amount of special taxes assessed against each school district in his county, and to furnish the same to the county superintendent on or before the 1st day of September of the year for which such taxes are assessed; and the taxes levied upon the real property in said district shall be a lien thereon, and the same shall be sold for unpaid taxes in the manner and at the time of sales for State and county taxes. A special tax voted in any district after the levy of county taxes shall be levied at any meeting of the commissioners court prior to the delivery of the assessment rolls by the assessor. The tax assessor shall assess and the tax collector shall collect said district taxes as other taxes. The tax assessor shall receive a commission of 1 per centum for such assessing such tax, and the tax collector a commission of 1 per centum for collecting the same. The tax collector shall pay all such taxes to the county treasurer, and said treasurer shall credit each school district with the amount belonging to it, and pay out the same as other school moneys.

SEC. 78. SINKING FUND TO BE PROVIDED TO PAY PRINCIPAL AND INTEREST ON SCHOOL DISTRICT BONDS.—Before said common school district bonds shall be put on the market, the county commissioners court of said county shall levy a tax not to exceed 15 cents on the one hundred dollars valuation of taxable property of said common school district, sufficient to produce a sinking fund, which, together with the interest thereon when placed at interest, shall be sufficient to pay the interest



and principal of said bonds at maturity; provided, that the said bond tax, together with the special local tax for the maintenance of schools therein, shall never exceed 20 cents on the hundred dollars valuation of taxable property of said common school district as provided by the Constitution and laws of the State of Texas; provided further, that said common school district bond tax shall be assessed and collected in the manner provided by law for the assessment and collection of the common school district special local tax for the maintenance of public free schools.

SEC. 138. LEVY OF SPECIAL TAX FOR SCHOOL PURPOSES IN CITIES AND TOWNS.—In such cities and towns as have assumed the exclusive control of the public free schools within their limits, and have decided under the laws providing therefor that a special tax shall be levied for the support of such public free schools, the mayor and council or board of aldermen of such city or town shall annually assess and levy such tax by ordinance duly passed and approved in the same manner as is required in the assessment and levy of taxes for general purposes in such city or town. In cities and towns which have voted upon and directed the levy of a special tax not exceeding one-half of 1 per cent, the mayor or council or board of aldermen of such city or town shall annually levy such rate of taxes for public school purposes not exceeding one-half of 1 per cent as shall be sufficient for the support of the public free schools for the term as required by law; but in such cities and towns as have voted upon and decided at an election held for that purpose, that a specified rate of taxes shall be assessed and levied in such city or town for the support of its public free schools, the mayor and council or board of aldermen of such city or town shall have no discretion in fixing the rate at which such tax shall be levied, but shall assess and levy the same at the rate fixed in the proposition as submitted and adopted by the qualified voters of such city or town at the election held for that purpose.

SEC. 142. ANNUAL LEVY AND COLLECTION OF SCHOOL TAX IN CITIES AND TOWNS.—The city or town council, or board of aldermen of any city, town or village, whether incorporated under any act of the Congress of the Republic, or the Legislature of the State of Texas, or under any act of incorporation whatever, shall have power by ordinance to annually levy and collect not exceeding one-half of 1 per cent ad valorem taxes for the support and maintenance of public free schools in the city or town where such city or town is a separate and independent school district; provided, that no such tax shall be levied until an election shall have been held, at which none but property taxpayers, as shown by the last assessment rolls, who are qualified voters of such city or town, shall vote, and two-thirds of those voting shall vote in favor thereof. The

proposition submitted may be for a tax not exceeding one-half of 1 per cent, or may be for a specific per cent. One election and no more shall be held hereafter in any one calendar year to ascertain whether a school tax shall be levied. If the proposition is carried the school tax shall be continued to be annually levied and collected for at least two years, and thereafter unless it be discontinued at an election held to determine whether the tax shall be continued or discontinued, at the request of fifty property taxpayers of such city or town. When the tax is continued no election to discontinue it shall be held for two years; when the tax is discontinued no election to levy a tax shall be held during the same year.

SEC. 143. TAX NOT TO EXCEED ONE-HALF OF 1 PER CENT.—If the vote of the taxpayers is in favor of said tax, then it shall be the duty of the council or board of aldermen annually thereafter to levy upon the taxable property in the limits of such city or town, in accordance with the usual assessment of taxes for municipal purposes, such additional tax as may be necessary for the support of the schools for ten months in the year, not to exceed one-half of 1 per cent.

SEC. 149. INCORPORATION OF TOWNS AND VILLAGES FOR SCHOOL PURPOSES ONLY; RIGHT TO LEVY AND COLLECT TAXES.—Towns and villages authorized to incorporate under this chapter, or having two hundred inhabitants or over, may form an incorporation for free school purposes only, which may include within its bounds a town or village incorporated for municipal purposes, the same not having assumed control of the public schools within its limits; provided, that the territory so incorporated for free school purposes shall not exceed an area of twenty-five square miles; provided, that said corporation shall be laid out in a square as near as practicable with reference to the location of the school building; and when so desiring, an election may be held under the provisions of this title and chapter, and if, at such election, a majority of the votes cast be in favor of the incorporation, it shall be the duty of the county judge to make return thereof, and cause a record of the result of such election to be made, the same as provided for by Articles 585 and 586, Revised Statutes of Texas, upon which entry being made, such town or village shall be regarded as duly incorporated for the purpose of establishing and maintaining free schools therein, and shall, upon notice to the State Board of Education by the board of trustees hereinafter provided for, receive such pro rata share of the available school fund as its scholastic population may entitle it to. And provided also, that all school incorporations hereafter formed under the provisions of this act shall have the right to levy and collect taxes and

issue bonds for school purposes, the same as school incorporations heretofore formed.

When a town or village is included in a corporation for free school purposes, and such town or village shall afterwards be incorporated for municipal purposes, it shall not thereby acquire a right to take the control of the schools within its limits out of the hands of the school corporation.

SEC. 154. ANNUAL TAX FOR BUILDINGS, ETC., MAY BE LEVIED AND COLLECTED AND BONDS ISSUED.—Trustees of towns and villages that have been or may hereafter be incorporated for school purposes only, under the general laws of this State, shall have power to levy and collect an annual ad valorem tax of 25 cents on the one hundred dollars valuation of taxable property, for the purpose of purchasing or constructing public free school buildings and sites therefor, within the limits of such incorporated district, and said trustees shall have power to issue coupon bonds of the town or village therefor, to be made payable at a date not exceeding forty years from date, in such sums as they shall deem expedient, to bear interest not to exceed 6 per cent per annum; provided, that when such buildings are erected of wood material the bonds herein provided shall not run for a longer period than twenty years; provided, that the aggregate amount of bonds issued for the above named purpose shall never reach an amount when the tax of one-fourth of 1 per cent per annum will not pay current interest and provide a sinking fund sufficient to pay the principal at maturity; and provided further, that no such tax shall be levied and no such bonds issued until an election shall have been held for the purpose of determining said question, whereat two-thirds of the taxpayers voting at said election shall have voted in favor of the levying of said tax or the issuance of said bonds, or both, as the case may be.

SEC. 165. OFFICERS OF SCHOOL BOARD CHOSEN; BOARD OF TRUSTEES' COMPENSATION, ETC.; ASSESSMENT AND COLLECTION OF TAXES, ETC.—The trustees chosen under this act shall meet within twenty days after the election, or as soon thereafter as possible, for the purpose of organizing. A majority of said board shall constitute a quorum to do business; and they shall choose from their number a president; and they shall choose a secretary, a treasurer, assessor and collector of taxes, and other necessary officers and committees. The treasurer shall be required to give bond in double the estimated amount of the receipts coming annually into his hands. Said bond shall be made payable to the president of the board, or his successor in office, and be approved by the board of trustees, conditioned for the faithful discharge of his duties and the payment of the funds received by him upon the draft of the president,

drawn upon order, duly entered, of the board of trustees; and he shall be entitled to retain as commission for his services as such treasurer not exceeding 1 per cent of all funds coming into his hands, as ordered by the board; provided, that in cities having more than ten thousand population the board shall appoint as treasurer the person or corporation who offers satisfactory bonds as herein provided, and the best bid of interest on average daily balance for the privilege of acting as such treasurer, and provided further, that no commission shall be allowed in such cases for services as treasurer; provided further, that in independent districts having less than ten thousand population the board of trustees may appoint such treasurer as provided for towns of more than ten thousand population and under the same provisions; provided, that in independent school districts in cities and towns having a city assessor and collector of taxes, such assessor and collector of taxes shall assess and collect the taxes for school purposes; provided, that in cities and towns having an assessor and collector of taxes the levy of taxes for school purposes shall be based upon the same assessment of property upon which the levy for other city purposes is based. It is further provided, that in such cities and towns the assessor and collector of taxes shall receive no other compensation for collecting school taxes than the compensation paid him for assessing and collecting city taxes, and taxes for school purposes in such cities and towns shall be assessed and collected as other city taxes are assessed and collected; provided further, that when a majority of the board of trustees of an independent school district prefer to have the taxes of their district assessed and collected by the county assessor and collector, same shall be assessed and collected by said county officers, and turned over to the treasurer of the independent school district for which such taxes have been collected; provided, that the property of such districts having their taxes assessed and collected by the county assessor and collector, shall not be assessed at a greater value than that assessed for county and State purposes.

Provided further, that when the county assessor and county collector are required to assess and collect the taxes of independent school districts, they shall, respectively, receive 1 per cent for assessing and collecting same.

The provisions of this act shall not be applicable to cities of ten thousand inhabitants or more which have been granted special charters by the State, by the terms of which charters the treasurer of the city is ex officio treasurer of the school board, in so far as conflicting with the terms of said charters.

SEC. 166. POWERS AND DUTIES OF ASSESSOR AND COLLECTOR OF TAXES.—The assessor and collector named herein shall have the same



power and shall perform the same duties with reference to the assessment and collection of taxes for free school purposes that are conferred by law upon the city marshal of incorporated towns or villages, and he shall receive such compensation for his services as the board of trustees may allow, except in cities and towns above provided for, not to exceed 4 per cent of the whole amount of taxes received by him, and he shall give bond in double the estimated amount of taxes coming annually into his hands, payable to the president of the board or his successors in office, conditioned for the faithful discharge of his duties and that he will pay over to the treasurer of the board all the funds coming into his hands by virtue of his office as such assessor and collector; provided, that in the enforced collection of taxes the board of trustees shall perform the duties which now devolve in such cases upon the city council of an incorporated city or town; the president of the board of trustees shall perform the duties which devolve in such cases upon the mayor of an incorporated city or town, and the county attorney of the county in which the independent school district is located shall perform the duties which in such cases devolve upon the city attorney of an incorporated city or town under the provisions of Chapter 103, General Laws, Regular Session, Twenty-fifth Legislature.



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